

DAVID B. FARKAS (SBN 257137)
david.farkas@us.dlapiper.com
DLA PIPER LLP (US)
2000 Avenue of the Stars
Suite 400 North Tower
Los Angeles, California 90067-4704
Tel: (310) 595-3000
Fax: (310) 595-3300

JOHN K. LYONS (*Pro Hac Vice*)
john.lyons@dlapiper.com
JEFFREY S. TOROSIAN (*Pro Hac Vice*)
jeffrey.torosian@dlapiper.com
JOSEPH A. ROSELIUS (*Pro Hac Vice*)
joseph.roselius@dlapiper.com
DLA PIPER LLP (US)
444 West Lake Street, Suite 900
Chicago, Illinois 60606-0089
Tel: (312) 368-4000
Fax: (312) 236-7516

Attorneys for Jonathan D. King as Chapter 7 Trustee

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

ZETTA JET USA, INC., a California
corporation,

Debtor.

Lead Case No.: 2:17-bk-21386-SK
Chapter 7
Jointly Administered With:
Case No.: 2:17-bk-21387-SK

Adv. Proc. No. 2:19-AP-1982-SK

In re:

ZETTA JET PTE, LTD., a Singaporean
corporation,

Debtor.

**FIRST AMENDED ADVERSARY
COMPLAINT**

JURY DEMAND¹

Hearing:
Date: September 15, 2021
Time: 9:00 a.m. (PDT)
Place: Courtroom 1575
255 East Temple Street
Los Angeles, CA 90012

JONATHAN D. KING, solely in his capacity
as Chapter 7 Trustee of Zetta Jet USA, Inc. and
Zetta Jet PTE, Ltd.,

Plaintiff,

v.

JETCRAFT CORPORATION, JETCRAFT
GLOBAL, INC., JETCOAST 5000-5 LLC,
ORION AIRCRAFT HOLDINGS LTD.,
JETCRAFT ASIA LIMITED, FK GROUP
LTD, FK PARTNERS LIMITED, JAHID

¹ The Trustee has filed a *Notice of Jury Demand* contemporaneously herewith.

FAZAL-KARIM, BOMBARDIER
AEROSPACE CORPORATION,
BOMBARDIER, INC., and LEARJET, INC.,

Defendants.

Plaintiff Jonathan D. King, solely in his capacity as the Chapter 7 Trustee (and the former Chapter 11 Trustee) (the “Trustee”) appointed in these cases (the “Chapter 7 Cases”), on behalf of the above-captioned debtors, Zetta Jet USA, Inc. (“Zetta USA”) and Zetta Jet PTE, Ltd. (“Zetta PTE,” and together with Zetta USA and the Zetta BVI Subsidiaries defined below, the “Debtors”), by and through his undersigned counsel, DLA Piper LLP (US), brings this First Amended Adversary Complaint (the “Complaint”) against defendants Jetcraft Corporation (“Jetcraft Corp.”); Jetcraft Global, Inc. (“Jetcraft Global”); Jetcoast 5000-5, LLC (“Jetcoast”); Orion Aircraft Holdings Ltd. (“Orion”); Jetcraft Asia Limited (“Jetcraft Asia,” and together with Jetcraft, Jetcraft Global, Jetcoast, and Orion, “Jetcraft”); FK Group Ltd. (“FK Group”); FK Partners Ltd. (“FK Partners”); Jahid Fazal-Karim (“Fazal-Karim,” and together with Jetcraft, FK Group, and FK Partners, the “Fazal-Karim Defendants”); Bombardier Aerospace Corporation (“BAC”); Bombardier, Inc. (“BI,” and together with BAC, “Bombardier”); and Learjet, Inc. (“Learjet,” and collectively, the “Defendants”)², and, reserving and not waiving any right to amend this Complaint as appropriate and allowed:

PRELIMINARY STATEMENT

1. This is a case about rampant fraud, bribery, and corruption in the high-priced luxury private jet market. At the core of the case is a conspiracy between Bombardier, Jetcraft, and Geoff Cassidy (“Cassidy”). Cassidy was the Managing Director of Zetta PTE and a director of Zetta PTE from July 2015 until the other directors removed and terminated him in August 2017. Through this conspiracy and numerous wrongful acts involving bribery and other misconduct, Cassidy misappropriated millions of dollars from Zetta PTE while

² ECN Aviation Inc. f/k/a Element Aviation Inc. (“Element Aviation”); and ECN Capital Corporation, as successor to Element Financial Corporation (“ECN” and together with Element Aviation, “Element”) were previously named as defendants, but Element has settled all claims with the Debtors.

Bombardier and Jetcraft earned tens of millions of dollars in commissions and profits by selling fraudulently overpriced planes to the company. By the time Zetta PTE filed for Chapter 11 protection along with Zetta USA in September 2017, the wrongful acts and misconduct of Bombardier, Jetcraft, and Cassidy had crippled the Debtors and left their creditors with almost nothing.

2. Bombardier and Jetcraft did not participate in this conspiracy with Cassidy through isolated acts of low-level rogue employees, but rather through the concerted and pervasive misconduct of senior executives, in the case of Bombardier, and the principal of the company, in the case of Jetcraft. Nor does this misconduct appear to be aberrational; Bombardier has recently been under investigation by the Swedish police authorities, the World Bank Group, and the US Department of Justice regarding “collusion, corruption, fraud and obstruction” related to contracts in Azerbaijan; has recently been under investigation by a judicial commission in South Africa for “irregularities with respect to multiple procurements”; has recently been under investigation by the Spanish Competition Authority for “irregularities in public tenders”; was fined \$4 million by governmental authorities in Brazil for anti-competitive activity; and is the subject of a U.K Serious Fraud Office bribery probe for suspected bribery in Indonesia.³

3. The Trustee seeks redress here for the wrongful acts orchestrated against the Debtors by these Defendants.

4. For the convenience of the Court, and without waiving any right to rely on any allegations in the Complaint for any purpose, the Trustee has organized this Complaint into the following sections:

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³ BI 2020 Annual Report at 205-209, available at <https://bombardier.com/system/files/financial-reports/2021-02/Bombardier-Financial-Report-2020-en.pdf>, relevant excerpts attached as Exhibit 1.

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INTRODUCTION

5. Zetta PTE was a private jet company formed and run by Cassidy, a serial con artist and fraudster. Cassidy conspired with Bombardier and Fazal-Karim to cause the Debtors to enter into a single purchasing program to purchase almost half a billion dollars of aircraft from Jetcraft and Bombardier rather than their competitors in return for more than \$1 million in commercial bribes⁴ and kickbacks⁵ paid by Jetcraft Corp. (through Jetcraft Global) at Fazal-Karim’s direction and paid by Bombardier directly. At the same time, Cassidy embezzled at least \$8 million from the Debtors. Cassidy was also operating the Debtors as a Ponzi-like scheme, using a fraudulent business plan to convince initial investors and financiers to lend the Debtors funds, then using new financiers to pay off old debt in exchange for new debt (including duplicative debt) that the Debtors were unable to pay. Cassidy knew from the beginning that his schemes were unsustainable and that the

⁴ Commercial bribery is defined as “corrupt dealing with the agents or employees of prospective buyers” COMMERCIAL BRIBERY, Black’s Law Dictionary (11th ed. 2019).

⁵ A kickback is a species of bribe defined as a “sum of money illegally paid to someone in authority . . . for arranging for a company to receive a lucrative contract” and is often “a return of a portion of a monetary sum received” by the briber. KICKBACK, Black’s Law Dictionary (11th ed. 2019).

1 Debtors were doomed to fail, yet he acted to line his own pockets at the expense of the
2 Debtors and their creditors.

3 6. Fazal-Karim is Bombardier's sales agent and also runs a private luxury jet
4 broker, Jetcraft. Fazal-Karim directed Jetcraft Corp. (through Jetcraft Global) to pay
5 Cassidy at least \$1 million in kickbacks to induce Cassidy to cause the Debtors to run their
6 purchasing program through Jetcraft and Bombardier. Fazal-Karim directed Jetcraft Corp.'s
7 CFO to have Jetcraft Global pay Cassidy a \$500,000 kickback to induce Cassidy to cause
8 the Debtors to enter into agreements to purchase one Bombardier plane from Jetcraft and
9 six additional planes directly from Bombardier in three linked transactions. Fazal-Karim
10 later directed Jetcraft Corp.'s CFO to have Jetcraft Global pay Cassidy a second \$500,000
11 kickback to induce Cassidy to cause the Debtors to acquire an additional Bombardier plane
12 from Jetcraft and an additional four planes directly from Bombardier, as well as to ensure
13 that Cassidy took delivery of earlier planes (thereby ensuring that Bombardier would not
14 lose the sales and the vast majority of the remaining contract payments, which were not due
15 until closing and delivery).

16 7. Bombardier not only knew of and agreed to the kickbacks that Fazal-Karim
17 had Jetcraft Global pay to Cassidy, it worked in concert with Fazal-Karim by paying bribes
18 directly to Cassidy as well. Two Bombardier executives, Khader Mattar and Yubin Yu, had
19 Bombardier pay Cassidy a \$43,890 bribe and agreed to have Bombardier pay Cassidy
20 another \$42,569 bribe (that Fazal-Karim ultimately paid through FK Partners after a later
21 agreement with Mattar), to ensure that the Debtors would not terminate agreements for four
22 planes from Bombardier, as Cassidy expressly threatened to do.

23 8. As a direct result of the bribes and kickbacks to Cassidy, Fazal-Karim,
24 Jetcraft, and various related entities received or were entitled to receive at least [REDACTED]
25 [REDACTED] in commissions from Bombardier, profits, and other payments, while Bombardier
26 received sales and future orders that Bombardier valued at more than half a billion dollars
27 (and transfers of loan proceeds from obligations incurred by the Debtors of at least \$200
28 million and direct payments from the Debtors of at least \$47.9 million). As a direct result

1 of the bribes that Bombardier paid or agreed to pay, Cassidy agreed not to cancel contracts
2 worth more than [REDACTED] to Bombardier (which would also have forced Bombardier
3 to have to return more than [REDACTED] in prepayments), and Cassidy further induced the
4 Debtors to acquire four additional planes worth more than \$129.4 million to Bombardier.
5 These payments, sales, and future orders occurred while the private jet industry was, in the
6 words of Fazal-Karim, in its “most difficult period.”

7 9. At the same time as he was taking bribes in exchange for planes, Cassidy
8 used the Debtors as his personal piggy bank, knowing full well that the Debtors and their
9 creditors would be left with nothing. Cassidy stole at least \$8 million from the Debtors: (a)
10 he embezzled at least \$2.66 million out of the proceeds of a single aircraft closing; (b) he
11 stole approximately \$3.4 million to purchase a 70-foot luxury yacht; and (c) he spent
12 millions more of the Debtors’ funds on extravagant purchases for his own personal benefit,
13 including among other things a high-end apartment in Singapore, Bentley and BMW luxury
14 automobiles, Richard Mille watches, luxury goods from Hermes, and lavish vacations.

15 10. Even without Cassidy’s embezzlement, the Debtors never had enough
16 operating income to pay off trade creditors or the debt service on the planes. Simply put,
17 the Debtors could not charge rates sufficient to service their debts and were consistently
18 earning a net *loss* for every hour the planes were in the air with no hope of improvement.
19 Instead, Cassidy kept Zetta afloat by using investor, financier, and customer funds in a
20 Ponzi-like scheme. For example, Cassidy induced Li Qi (“Li”)—a Hong Kong-based
21 businessman and investor—and several aircraft financiers to invest or loan funds by
22 promising significantly above-market rates of return based on a fraudulent business plan.

23 11. When the Debtors had only “breathing room of 1.5 months” and the
24 “wolves” were at the door, Cassidy engineered a cash out refinance transaction with new
25 financiers to pay off in part his initial investor and financiers so that he could continue his
26 Ponzi-like scheme and take advantage of an opportunity to steal millions of dollars from
27 the proceeds. Cassidy planned to use a revised business plan with even more inflated
28 numbers to bring in new investors, but his fraud was discovered by his business partners

1 before he could continue his scheme.

2 12. The Trustee now brings claims against the Fazal-Karim Defendants and
3 Bombardier for aiding and abetting Cassidy's breaches of fiduciary duty, civil conspiracy,
4 violating California Business and Professions Code § 17200 (including specifically the
5 unlawful payment of commercial bribes under the California commercial bribery law), civil
6 fraudulent misrepresentation, and fraudulent concealment or omission. On these tort claims,
7 the Trustee seeks to recover damages of at minimum the amount of the bribes, plus the
8 amounts that each of the aircraft sold was overpriced, and any additional amounts by which
9 the Debtors were damaged by the corrupt transactions, or in the alternative for restitution
10 of the Defendants' ill-gotten gains.

11 13. The Trustee also seeks to avoid actually or constructively fraudulent
12 transfers and obligations between the Debtors and the Defendants, and to avoid preference
13 transfers to Bombardier and Learjet. The Trustee seeks to avoid and recover all actively or
14 constructively fraudulent transfers and preference transfers from the Defendants.

15 14. The Trustee further brings claims against Bombardier for violating the
16 automatic stay.

17 15. Finally, the Trustee objects to proofs of claims that have been filed by certain
18 Defendants in these cases, seeks disallowance of all the Defendants' claims, and
19 affirmatively asserts counterclaims against these Defendants on the basis of the counts
20 raised in this Complaint.

21 **JURISDICTION AND VENUE**

22 16. This Court has jurisdiction over this Adversary Proceeding under 28 U.S.C.
23 §§ 157 and 1334. This Adversary Proceeding is a core proceeding under 28 U.S.C.
24 § 157(b)(2)(A), (B), (C), (E), (F), (K), (H), and (O).

25 17. Venue of this Adversary Proceeding is proper under 28 U.S.C. §§ 1408 and
26 1409 because it arises in these Chapter 7 Cases, which are currently pending before this
27 Court.

28 18. The statutory authority for the relief sought is 11 U.S.C. §§ 105(a), 362, 502,

542, 544, 547, 548, and 550 and Rules 3007 and 7001 of the Federal Rules of Bankruptcy Procedure.

19. The Trustee does not consent to the entry by the Bankruptcy Court of final orders on any issues that are triable by jury, related thereto, or otherwise tried in conjunction therewith. The Trustee does not consent to the Bankruptcy Court conducting a jury trial under 28 U.S.C. § 157(e).

PARTIES AND RELEVANT NON-PARTIES

A. The Trustee

20. The Trustee is the duly appointed Chapter 7 trustee of the Debtors' bankruptcy estates. The Trustee has the authority and power to bring this Adversary Proceeding on behalf of the Debtors' estates pursuant to 11 U.S.C. § 704.

B. The Debtors and related parties and personnel

21. Debtor Zetta PTE was organized on July 15, 2015, by Cassidy along with James Seagrim ("Seagrim") and Matthew Walter ("Walter"). Cassidy owned 34 percent of Zetta PTE's shares through Asia Aviation Company Pte. Ltd. ("Asia Aviation") and Seagrim and Walter each owned 33 percent of Zetta PTE's shares.

22. Debtor Zetta PTE purchased Debtor Zetta USA in August 2016 and merged with Asia Aviation.

23. Debtor Zetta USA, formerly known as Advanced Air Management, Inc. ("AAM") until August 2016, was a private jet charter company based in Burbank, California, and operated by Seagrim and Walter.

24. Asia Aviation, owned by Cassidy and his then-wife, Miranda June Tang Kim Choo ("Tang"), operated a single jet on behalf of the jet's owner, until it was merged into Zetta PTE.

25. Cassidy was at all relevant times the Debtors' Managing Director and a Director of Zetta PTE.

26. Tang was at all relevant times a Director of Zetta PTE.

27. Seagrim was the Debtors' Director of Operations and a Director of Zetta

1 PTE and Zetta USA. Seagrim was based in Zetta USA's Burbank, California, office.

2 28. Walter was the Debtors' Director of Sales and a Director of Zetta PTE and
3 Zetta USA. Walter was based in Zetta USA's Burbank, California, office.

4 29. Li is a wealthy businessman and investor who resides in Hong Kong. Li
5 became a Director of Zetta PTE on February 26, 2016. Li used three entities he controlled
6 to manage his relationship with Zetta PTE: (1) Universal Leader Investment Limited
7 ("Universal Leader"); (2) Truly Great Global Limited ("Truly Great"); and (3) Glove Assets
8 Investments Ltd. ("Glove Assets").

9 30. Zetta PTE did not hold any formal board meetings until August 17, 2017.
10 Board decisions were made (1) by directors' resolutions in writing (which were signed by
11 Walter and Seagrim in Burbank, California; by Cassidy and Tang in Singapore; and, after
12 February 26, 2016, by Li in Hong Kong) or (2) by e-mail, where Cassidy would e-mail the
13 rest of the Directors for their approval (again by Walter and Seagrim in Burbank, California;
14 by Cassidy and Tang in Singapore; and after February 26, 2016, by Li in Hong Kong).

15 31. Zetta PTE's Memorandum of Association requires a majority vote of its
16 directors to enter into the transactions discussed in this Complaint. It also requires that any
17 "director who is in any way, directly or indirectly, interested in a transaction or proposed
18 transaction with the Company shall declare the nature of his interest in accordance with the
19 provisions of the Act" and further states that "a director shall not vote in respect of any
20 transaction in which he is interested (and if he does his vote shall not be counted), nor shall
21 he be counted for the purpose of any resolution regarding the same." (Mem. of Assoc. of
22 Zetta PTE ¶ 97.)

23 32. Because Cassidy and Tang were directly or indirectly interested in each of
24 the transactions described in this Complaint, based on Cassidy's receipt of commercial
25 bribes and kickbacks in connection with the transactions, as well as Cassidy's
26 embezzlement of proceeds in the transactions, their votes do not count for any of the
27 transactions.

28 33. Similarly, because Li was directly or indirectly interested in the transactions

1 involving Planes 6 and 7 and the Minsheng Refinancing (discussed further below), his vote
2 would not count in those transactions. In the other transactions, Li would have been at most
3 one out of three potential votes.

4 34. Accordingly, Seagrim and Walter, as the only disinterested directors, would
5 have had to unanimously approve the transactions before February 26, 2016 (when Li
6 became a director), and at least one of Seagrim and Walter (along with Li) would have had
7 to approve all transactions after February 26, 2016. As set forth below, the transactions were
8 not properly approved by these disinterested directors because of fraudulent
9 misrepresentations and omissions by Cassidy and the Defendants.

10 35. Zetta Jet Global 6000-1 Limited (“Zetta Jet 6000-1”), Zetta Jet Global 6000-
11 2 Limited (“Zetta Jet 6000-2”), Zetta Jet Global 6000-3 Limited (“Zetta Jet 6000-3”), Zetta
12 Jet Global 6000-4 Limited (“Zetta Jet 6000-4”), Zetta Jet Global 6000-5 Limited (“Zetta Jet
13 6000-5”), Zetta Jet Global 5000-1 Limited (“Zetta Jet 5000-1”), and Zetta Jet Global 5000-
14 2 Limited (“Zetta Jet 5000-2”) (collectively, the “Zetta BVI Subsidiaries”) are companies
15 formed under the laws of the British Virgin Islands (the “BVI”) by Zetta PTE. Zetta PTE is
16 the sole shareholder of each of the Zetta BVI Subsidiaries. Cassidy and Seagrim were the
17 directors of each of the Zetta BVI Subsidiaries.⁶

18 36. The Zetta BVI Subsidiaries were formed shortly before each finance and
19 lease transaction for which they were needed. These entities served no purpose other than
20 their role in these transactions. They did not conduct business, had no bank account, had no
21 employees, generated no income, had no presence in the BVI, and never held a meeting of
22 the Board of Directors.

23 37. The following Zetta Subsidiaries correspond to the following planes:

Zetta BVI Subsidiary	Corresponding Plane
Zetta Jet 5000-1	Plane 1
Zetta Jet 6000-4	Plane 4

24
25
26
27
28 ⁶ The Debtors may seek substantive consolidation of the Zetta BVI Subsidiaries through a
separate motion.

Zetta Jet 6000-5	Plane 5
Zetta Jet 6000-3	Plane 6
Zetta Jet 6000-2	Plane 7
Zetta Jet 6000-1	Plane 10
Zetta Jet 5000-2	Plane 11

C. Fazal-Karim and related Parties and personnel

38. Fazal-Karim is the majority owner and Chairman of the Board of Jetcraft Corp. and Jetcraft Global, as well as the director and sole beneficial owner of FK Partners and FK Group. Upon information and belief, he is a resident of Dubai in the United Arab Emirates.

39. Fazal-Karim has more than 25 years of experience in the aviation industry. Fazal-Karim acquired 50% of Jetcraft Corp. in May 2008. Prior to that, Fazal-Karim worked at Bombardier from approximately 2001 to 2008 as the regional vice president of sales for the Americas and then as the vice president of international sales. Before that, Fazal-Karim worked at Airbus as Vice President of Business Development and Asset Management from 1996 to 2001.

40. Since no later than August 16, 2015, Fazal-Karim, through his entity FK Group, held himself out as the exclusive representative of Bombardier in southeast Asia. In fact, Fazal-Karim served as Bombardier's agent in southeast Asia. During the relevant period, Fazal-Karim represented Bombardier in sophisticated negotiations involving, upon information and belief, billions of dollars in Bombardier aircraft and in extraordinarily complex transactions involving some of the world's biggest corporations and richest individuals.

41. Jetcraft Corp. is, and was at all relevant times, a Delaware corporation with its principal place of business in North Carolina.⁷

42. Jetcraft Global is, and was at all relevant times, a BVI corporation with its

⁷ Jetcraft's CFO testified at her Bankruptcy Rule 2004 deposition that Jetcraft's headquarters are in Raleigh, North Carolina, but its operations are largely decentralized.

1 principal place of business in North Carolina.

2 43. “Jetcraft” also appears to be the brand name for both Jetcraft Corp. and
3 Jetcraft Global. At all relevant times, Fazal-Karim owned 95 percent of both Jetcraft Corp.
4 and Jetcraft Global.

5 44. Jetcraft Asia is, and was at all relevant times, a BVI corporation with its
6 principal place of business in North Carolina. Jetcraft Asia is, and was at all relevant times,
7 a wholly owned subsidiary of Jetcraft Global.

8 45. Jetcoast is, and was at all relevant times, a Delaware corporation with its
9 mailing address in North Carolina. Jetcoast is, and was at all relevant times, a wholly owned
10 subsidiary of Jetcraft Global.

11 46. Orion is, and was at all relevant times, a BVI corporation with its registered
12 office in BVI. Orion is, and was at all relevant times, a wholly owned subsidiary of Jetcraft
13 Global.

14 47. Jetcraft provides aircraft sales, leasing, acquisition, and trade services. It
15 distributes new and pre-owned aircraft and provides consulting, fleet planning, and contract
16 services. Fazal-Karim operates Jetcraft through his “fk-group.net” e-mail account,
17 sometimes with a signature block that says “Jetcraft Chairman.” As described below, Fazal-
18 Karim negotiated on behalf of Jetcraft Corp. and its subsidiaries Jetcoast and Orion, ordered
19 Jetcraft Corp.’s CFO to pay kickbacks through Jetcraft Global, paid an additional kickback
20 through FK Partners, and managed Jetcraft’s relationship with the Debtors through his FK
21 Group e-mail account.

22 48. Anne Behrend (“Behrend”) was at all relevant times Jetcraft Corp.’s Chief
23 Financial Officer and Jetcraft Global’s Chief Financial Officer. At all relevant times,
24 Behrend worked out of Indianapolis, Indiana.

25 49. Peter Antonenko (“Antonenko”) was at all relevant times Jetcraft Corp.’s
26 Chief Operating Officer and is an attorney licensed to practice law in Minnesota. At all
27 relevant times, Antonenko worked out of Minneapolis, Minnesota.

28 50. Chad Anderson (“Anderson”) was at all relevant times Jetcraft Corp.’s

1 President. At all relevant times, Antonenko worked out of Minneapolis, Minnesota.

2 51. FK Group is, and was at all relevant times, an entity based in Dubai.

3 52. FK Partners is, and was at all relevant times, a UK entity with its registered
4 office in the UK.

5 **D. Bombardier Parties and related personnel**

6 53. BI is, and was at all relevant times, a Canadian corporation with its principal
7 place of business in Montreal, Canada.

8 54. BAC is, and was at all relevant times, a Delaware corporation with its
9 principal place of business in Texas. BAC is a wholly owned subsidiary of BI.

10 55. Bombardier Business Aircraft is, and was at all relevant times, a division
11 that is, upon information and belief, coextensive across both BI and BAC. Therefore, when
12 Bombardier Business Aircraft acts or makes statements, or when the employees of
13 Bombardier Business Aircraft act or make statements, those actions and statements are
14 actions and statements on behalf of both BI and BAC. Thus, both BI and BAC are included
15 together in this Complaint under the defined term Bombardier.

16 56. Learjet is, and was at all relevant times, a Kansas corporation with its
17 principal place of business in Kansas. Learjet is, upon information and belief, a subsidiary
18 of BAC.

19 57. Khader Mattar ("Mattar") was at all relevant times the Vice President of
20 Sales for the Middle East, Africa, Asia Pacific and China for Bombardier Business Aircraft.
21 Because Bombardier Business Aircraft is coextensive between BI and BAC, each of
22 Mattar's statements and actions alleged herein was made on behalf of both BI and BAC. In
23 his capacity at Bombardier Business Aircraft, Mattar was at all relevant times herein
24 responsible for overseeing Bombardier's sales in Asia and was Bombardier's primary point
25 of contact for Bombardier's relationship with the Debtors. Upon information and belief,
26 Mattar was at all relevant times based in Bombardier's Dubai sales office.

27 58. Yu Yubin ("Yu") was at all relevant times the Vice President of Sales for
28 the Middle East and Africa and Director of Sales for the Greater China region for

Bombardier Business Aircraft. Because Bombardier Business Aircraft is coextensive between BI and BAC, each of Yu's statements and actions alleged herein was made on behalf of both BI and BAC. Yu was also heavily involved in Bombardier's relationship with the Debtors.

59. David Coleal ("Coleal") was at all relevant times the President of Bombardier Business Aircraft. Because Bombardier Business Aircraft is coextensive between BI and BAC, each of Coleal's statements and actions alleged herein was made on behalf of both BI and BAC. Coleal at all relevant times oversaw Mattar and Fazal-Karim's work, at least with the Debtors.

F. Relevant non-parties and related personnel

60. CAVIC Aviation Leasing (Ireland) 22 Co. Designated Activity Company ("CAVIC") is, and was at all relevant times, an Irish corporation located at 2 Grand Canal Square, Grand Canal Harbour, Dublin 2, Ireland.

61. AVIC International Leasing Co. Ltd. ("AVIC") is, and was at all relevant times, a Chinese corporation located at 18/F, CATIC Tower, 212 Jiangning Road Shanghai, China 200041. Upon information and belief, AVIC is the ultimate parent corporation of CAVIC and was responsible for designing the transaction structures and negotiating the terms of the Finance Leases on behalf of CAVIC.

62. The ZJ6000-1 Statutory Trust (the "ZJ6000-1 ST"), the ZJ6000-2 Statutory Trust (the "ZJ6000-2 ST"), and the ZJ6000-3 Statutory Trust (the "ZJ6000-3 ST", and collectively with the ZJ6000-1 ST and the ZJ 6000-2 ST, the "CAVIC Statutory Trusts") are, and were at all relevant times, statutory trusts formed under Delaware law with registered offices in Delaware. The CAVIC Statutory Trusts were special purpose vehicles ("SPVs") established by AVIC specifically for the financed leases of Planes 2-4 and all control and decisions made by the trusts were under the control of AVIC.

63. Wells Fargo Bank Northwest N.A. ("Wells Fargo") is, and was at all relevant times, a national banking association with its principal place of business in Salt Lake City, Utah. Wells Fargo acted not in its individual capacity but only as the lessee trustee in certain

1 aircraft transactions. Wells Fargo is a party to various trust agreements whereby Wells
2 Fargo acted as the owner-trustee (and not in its individual capacity) of certain of the planes
3 at issue.

4 64. TVPX ARS Inc. ("TVPX") is, and was at all relevant times, a Wyoming
5 corporation. TVPX acted not in its individual capacity but only as the owner trustee or lessee
6 trustee in certain aircraft transactions. TVPX was a party to various trust agreements with
7 subsidiaries of Zetta PTE, by which TVPX agreed to hold the finance leases for aircraft in
8 trust for the benefit of these subsidiaries. At all times, the Debtors were the ultimate
9 beneficial owners and obligors of legal and economic interests subject to the trusts. In the
10 aviation industry, it is commonplace for non-citizen US corporate trusts to be formed to
11 register aircraft in the US with the Federal Aviation Administration ("FAA"). TVPX also
12 acted as signatory for the CAVIC Statutory Trusts.

13 65. Element Aviation is an Ontario company with its principal place of business
14 in Toronto, Ontario. At all relevant times, Element Aviation was a wholly owned subsidiary
15 of ECN Capital Corporation.

16 66. ECN is an Ontario company with its principal place of business in Toronto,
17 Ontario.

18 67. Michael O'Keefe ("O'Keefe") was at all relevant times the Vice President
19 of Capital Markets in ECN's Aviation Finance Division.

20 68. Frederic Larue ("Larue") was at all relevant times the Vice President of
21 Business Development in ECN's Aviation Finance Division.

22 69. Tony Bergeron ("Bergeron") was at all relevant times the President, Element
23 Aviation Finance, of ECN.

24 70. Steve Hudson ("Hudson") was at all relevant times the CEO of ECN.

25 71. Export Development Canada ("EDC") is, and was at all relevant times, a
26 Canadian corporation located at 150 Slater Street, Ottawa, Ontario, Canada K1A 1K3. EDC
27 was CAVIC's secured lender under the Plane 2-5 finance leases.
28

ALLEGATIONS COMMON TO ALL COUNTS

A. Cassidy's evolution as a con artist

72. Cassidy began his career as a con artist and fraudster at a young age. In 2008, at the approximate age of 19, Cassidy made headlines in Australia when he attempted to buy two yachts worth more than \$27 million by claiming that he was the chief executive of an aviation company. He was exposed when he claimed that he could not use his credit card because he had recently purchased a \$300,000 piano and misspelled the name of his alleged hometown. The yacht seller called Cassidy's purported bank and discovered the bank had never even heard of Cassidy.

73. Undaunted, Cassidy moved on to other scams. Later in 2008, he tried to buy an Australian professional basketball team by peddling the same fraudulent story, but this ploy failed as well.

74. Cassidy re-emerged in Singapore in 2012, at the approximate age of 24, and resumed his fraudulent scheming in the Asian private luxury jet market. It was a perfect fit for Cassidy. With customers consisting of ultra-high net worth individuals and celebrities who could afford a \$200,000-plus price tag for a roundtrip international flight on a private luxury jet, the luxury jet market provided Cassidy with an opportunity to succeed with a new and more ambitious fraud scheme than he had attempted in the past.

75. By 2014, Cassidy and Tang were the owners of Asia Aviation, which managed a Bombardier jet for a wealthy Singaporean for private use.

76. But Asia Aviation did not have an Air Carrier and Operator Certificate issued under 14 C.F.R. Part 135 (a "Part 135 Certificate") issued by the FAA, which is required to operate certain commercial charter flights for paying customers. Part 135 Certificates are tightly regulated and difficult to obtain and maintain. Part 135 Certificates also impose significant, complex, and ongoing operational and safety requirements. Without a Part 135 Certificate, Cassidy was stuck managing a single plane for a single person.

B. Cassidy approaches Seagrim and Walter to form Zetta PTE

77. Cassidy found the solution to his Part 135 Certificate problem in AAM, a

1 private jet charter business based in California that was operated by Seagrim and Walter.
2 By 2014, AAM was a successful business with a fleet of nine aircraft, which were a mix of
3 managed and leased aircraft. AAM catered primarily to high net worth individuals,
4 celebrities, and corporate clients in the US and Europe.

5 78. Unlike Cassidy's Asia Aviation, Seagrim and Walter's AAM had a Part 135
6 Certificate. Equally important, Seagrim and Walter had significant operational experience
7 running a charter airline to service many customers, unlike Cassidy, who was managing one
8 aircraft on behalf of a single owner.

9 79. Around March 2014, Seagrim and Walter were approached by a
10 representative of Cassidy, who was seeking a Part 135 Certificate so Cassidy could operate
11 charters on the jet that Asia Aviation managed. AAM ultimately agreed to, and did, execute
12 a Tri-Party Charter Management Agreement with Asia Aviation and the Singaporean owner
13 of the jet.

14 80. In early 2015, Cassidy began pressing Seagrim and Walter to expand their
15 business dramatically through a business venture with him. Cassidy told Seagrim and
16 Walter that he had access to large amounts of capital in China to purchase brand new
17 aircraft. Cassidy also told Seagrim and Walter that he was independently wealthy due to a
18 recent inheritance and that he had experience in his family's business operating charter
19 services in Asia. Cassidy further told Seagrim and Walter that he had access to wealthy
20 Chinese clientele who would pay top-of-market rates. None of this was true.

21 81. On July 15, 2015, Cassidy, Seagrim, and Walter incorporated Zetta PTE in
22 Singapore to conduct a private luxury jet charter business. Cassidy, Seagrim, and Walter
23 each owned one-third of Zetta PTE's stock. In July 2015, AAM filed with the FAA to
24 conduct authorized operations under the business name "Zetta Jet." This name was the logo
25 name on all new aircraft that were delivered to Zetta PTE.

26 82. Because only the holder of the Part 135 Certificate is permitted to operate
27 certain charter flights, all of Asia Aviation and AAM's existing planes were added to
28 AAM's Part 135 Certificate, and AAM operated all the revenue-generating chartered

1 flights.

2 **C. Bombardier and the Asian private luxury jet market were in crisis**

3 83. At the time Zetta PTE was formed, the Asian private jet industry was
4 experiencing difficulty driven by economic downturns in China, Asia's largest private jet
5 market. Fazal-Karim and Mattar publicly commented on the troubles in the Asian private
6 jet market. In a YouTube video posted by BAC in April 2016, Mattar indicated that that the
7 private jet industry in Asia was suffering, driven by a slow global market and slow market
8 in China. Mattar thought that until the market turned around, sales in China would continue
9 to be stagnant.⁸ Mattar acknowledged that due to the economic downturn, for the years 2016
10 and 2017, Bombardier expected to see softening in the Chinese market and did not expect
11 to see growth again until 2018 and 2019.⁹ In a February 20, 2018, interview with
12 Bloomberg, Fazal-Karim indicated that China had been slow for the previous five years.¹⁰
13 In an October 11, 2018, report, after conditions began to improve, Fazal-Karim stated that
14 the previous year had represented a "real turning point" for the industry, and the private
15 aircraft industry had just survived its "most difficult period."¹¹

16 84. Competitors in the industry, including an executive for business
17 development in China, agreed in April 2016 that "the economy is weak and . . . [i]t's
18 impacted jet sales, there's no question about that."¹² Some competitors indicated that the
19 Chinese market was further stifled by a Chinese government "crackdown" on bribery and
20 corruption. While in the West, many businesses saw the efficiency and utility of private

21
22 ⁸ Available at <https://www.youtube.com/watch?v=rB0h5j3rUY>.

23 ⁹ Matt Thurber, *Bombardier Preparing for Further Growth in China*, AINonline, Apr. 11,
2016, available at <https://www.ainonline.com/aviation-news/business-aviation/2016-04-11/bombardier-preparing-further-growth-china>, a true and correct copy of which is attached
24 hereto as Exhibit 2.

25 ¹⁰ Available at <https://www.youtube.com/watch?v=kzMxAbmAxbU>.

26 ¹¹ "Jetcraft Releases Fourth Annual 10-Year Market Forecast," Associated Press, Oct. 11,
2018, available at <https://www.apnews.com/ee25902649044535a531c5cb331e8949>, a true
27 and correct copy of which is attached hereto as Exhibit 3.

28 ¹² Fang Yan & Siva Govindasamy, *Utility Trumps Luxury as China Private Jet Buyers Fly Economy*, Reuters, Apr. 13, 2016, available at <https://www.reuters.com/article/us-china-airshow-luxury/utility-trumps-luxury-as-china-private-jet-buyers-fly-economy-idUSKCN0XA2R8>, a true and correct copy of which is attached hereto as Exhibit 4.

1 aircraft, the general sentiment in China was that private aircraft represent a lavish luxury,
2 and the Chinese government was discouraging its citizens from accepting extravagances.¹³

3 85. In this down market, Bombardier was in dire need of aircraft orders. On
4 August 14, 2015, Reorg Research, a financial reporting service for the restructuring
5 industry, noted that Bombardier had “become a focal point for distressed and high yield
6 investors” and issued a report detailing its financial woes, leading to significant layoffs:

7 The company is currently struggling with low orders in . . . its business
8 aircraft segment. For the most recent quarter [second quarter 2015],
9 Bombardier reported only eight net new orders for its business aircraft
10 segment, which compares to 30 units last year For the latest quarter,
approximately 40% of Bombardier’s total revenues were derived from the
business airspace unit.

11 * * *

12 Bombardier’s aircraft business has been under significant pressure. On its
13 most recent earnings call, Bombardier stated that it is seeing reduced
14 demand, specifically in Russia, China and Latin America. In May of 2015,
the company announced that it would be laying off 1,750 jobs tied to the
production of Global 5000/6000 jets due to softer than anticipated market
demand.¹⁴

15 86. Another analyst, later in the call, asked, “How did things possibly get so
16 bad?” to which management responded that the biggest delta in cash flow for the year was
17 the lack of customer advances”¹⁵ On October 29, 2015, a subsequent report by Reorg
18 Research noted that Bombardier’s \$1.5 billion notes were trading between 79.25 and 84
19 cents on the dollar and that the ramp down of production of the Global 5000/6000 program
20 cost the company \$1 billion to \$1.2 billion in cash flow in 2015.¹⁶

21 87. Bombardier’s share price for its Class B common shares (BBD.B) tumbled.¹⁷

22
23 ¹³ Mandy Zuo, *Mainland’s private jet sales hit turbulence*, Bloomberg, Apr. 15, 2015, a
true and correct copy of which is attached hereto as Exhibit 5.

24 ¹⁴ Reorg Report, *Tear Sheet: Bombardier Global 7000 Delivery Delay and Heavy Capex*
25 *Weigh on Balance Sheet, Bonds Fall to the Low 70s*, Aug. 14, 2015, a true and correct copy
of which is attached hereto as Exhibit 6.

26 ¹⁵ Reorg Report, *Updated Tear Sheet: Bombardier Takes Impairment Charges; Liquidity*
27 *Remains Top Concern*, Oct. 29, 2015, a true and correct copy of which is attached hereto as
Exhibit 7.

28 ¹⁶ *Id.*

¹⁷ Most of Bombardier’s Class A shares are owned by the Bombardier family, while most
of the Class B shares are owned by the public.

1 From a high of CA\$7.29 on March 31, 2011, and CA\$4.43 on December 2, 2014, by July
2 15, 2015, the share price had dropped to CA\$2.00, before bottoming out at CA\$0.78 on
3 February 11, 2016.

4 88. On November 11, 2016, BI's CEO Allain Bellemare told the media that
5 Bombardier was on the brink of bankruptcy in 2015. He said: "It's important to realize that
6 Bombardier was on the brink of bankruptcy in 2015 . . . Bombardier was in a very
7 precarious situation. We needed liquidity."¹⁸

8 89. Thus, in the fall of 2015, Bombardier was desperate to enhance its sales,
9 particularly in Asia, to obtain precious liquidity and avert a possible bankruptcy.

10 **D. Cassidy takes control and drives the Debtors into immediate financial crisis**

11 90. Zetta PTE was formed in a manner that provided Cassidy with actual and
12 effective control of key functions of the company, including its financial operations. Zetta
13 PTE's finance department was located in Singapore and reported to Cassidy and his wife,
14 Tang. Cassidy and Tang had approval rights for transfers of funds with respect to Zetta PTE
15 at all relevant times before their termination and removal in August 2017. In addition, in
16 late 2016, Zetta USA sent all of its financial records to Singapore at Cassidy's request.

17 91. Shortly after becoming a director of Zetta PTE and the Managing Director
18 of Zetta PTE, Cassidy also embarked on a plan to purchase high-priced Bombardier aircraft
19 that saddled the company with almost *half of a billion dollars* in insurmountable debt in
20 exchange for commercial bribes and kickbacks and to cover up Cassidy's embezzlement
21 scheme. Over the little more than two years that Zetta PTE existed, Cassidy caused the
22 Debtors to purchase at least nine Bombardier luxury jets and enter into purchase agreements
23 or options for six more aircraft, even though it was economically impossible for the Debtors
24 to service the debt and the Debtors were regularly failing to pay their other creditors on
25 time.

26 ¹⁸ Bertrand Marotte, *Bombardier on 'brink of bankruptcy' in 2015, CEO reveals*, The Globe
27 & Mail, Nov. 11, 2016, available at [https://www.theglobeandmail.com/report-on-](https://www.theglobeandmail.com/report-on-business/bombardier-on-brink-of-bankruptcy-in-2015-ceo-reveals/article32818969/)
28 [business/bombardier-on-brink-of-bankruptcy-in-2015-ceo-reveals/article32818969/](https://www.theglobeandmail.com/report-on-business/bombardier-on-brink-of-bankruptcy-in-2015-ceo-reveals/article32818969/), a true
and correct copy of which is attached hereto as Exhibit 8.

1 92. In breach of his fiduciary duties to the Debtors, Cassidy did not take any
2 meaningful steps to negotiate lower prices from Bombardier for the purchases of these
3 aircraft, much less implement a competitive procurement process, or request proposals from
4 Bombardier's competitors such as Gulfstream. During one of the worst luxury jet markets
5 in recent history, Cassidy caused the Debtors to pay at or very close to the asking price for
6 these aircraft to the severe detriment of the Debtors and their estates.

7 93. Moreover, the prices Cassidy caused the Debtors to pay for these
8 Bombardier aircraft were significantly inflated. As described below, Cassidy caused the
9 Debtors to pay *nearly \$100 million above fair market value* on the Planes that the Debtors
10 actually received. The Debtors could not afford these planes at the rates they could charge;
11 in fact, the Debtors would have had to charge rates approximately three times greater than
12 their average rate break even on the inflated purchase price. Accordingly, to pay prices
13 significantly above market only served to propel the Debtors into a more precipitous fall
14 into financial crisis.

15 94. AAM sent Zetta PTE millions of dollars in charter revenues that Zetta PTE
16 then used to pay deposits, down payments, and debt service on the Planes discussed below,
17 including at least \$1.4 million in December 2015 that Zetta PTE used to pay part of the
18 deposits on Planes 1-6, as well as [REDACTED] that AAM wired directly to Jetcraft Corp. for
19 Plane 1. Cassidy also used revenue from AAM to repay Zetta PTE's investors. The revenue
20 was never sufficient to cover the Debtors' outstanding obligations, and Cassidy made up
21 the difference using loan proceeds and investor funds in a Ponzi-like scheme.

22 95. Underlying these breaches of fiduciary duties to the Debtors—and the
23 motivation for many of the breaches—was Cassidy's profiteering and self-enrichment at
24 the expense of the Debtors, through commercial bribery and kickbacks, the operation of two
25 Ponzi-like schemes, and a wide assortment of other fraudulent activity involving Cassidy
26 and others who facilitated or conspired in his misconduct.

E. The Defendants' commercial bribery and Cassidy's schemes

1 96. From his early forays into fraud to his time at Zetta, Cassidy had one
2 overarching goal: to fund a lifestyle of the rich and famous at someone else's expense.
3 Cassidy believed that he was entitled to, as he put it, "drink the top shelf expensive and
4 exclusive alcohol and Champagne and eat caviar," instead of "bottom shelf alcohol" and
5 "McDonalds."

6 97. With the willing participation of Bombardier and Jetcraft, Cassidy
7 accomplished this goal in four broad ways.

8 98. First, as described more fully below, Fazal-Karim (through Jetcraft Corp.,
9 Jetcraft Global, and FK Partners) and Bombardier paid Cassidy more than \$1 million in
10 commercial bribes and kickbacks in exchange for sourcing the Debtors' aircraft acquisitions
11 through Fazal-Karim and buying Bombardier planes.

12 99. Second, Cassidy, among other things, (a) stole at least \$2.66 million from
13 the proceeds of one aircraft financing, (b) misappropriated approximately \$3.4 million to
14 purchase a 70-foot luxury yacht called the Dragon Pearl, and (c) misappropriated—at the
15 very least—another \$2 million of the Debtors' funds on extravagant purchases for his own
16 personal benefit, including among others a high-end apartment in Singapore, Bentley and
17 BMW luxury automobiles, Richard Mille watches, luxury goods from Hermes, and lavish
18 vacations.

19 100. Third, as described more fully below, Cassidy operated the Debtors as a
20 Ponzi-like scheme. Using a fraudulent business plan promising unattainable success
21 (because the proposed revenue per flight hour could never support the inflated purchase
22 price of the aircraft), Cassidy induced Li to invest with promises of outsized returns, which
23 Cassidy repaid with funds from the Minsheng Refinancing rather than revenues from the
24 Debtors' operations. Cassidy also used the business plan to induce the financiers (including
25 Element and AVIC) to lend him funds to buy planes that the debtors could not afford.
26 Cassidy created a second fraudulent business plan to induce new investment to pay off the
27 initial investments by Li, Element, AVIC, and Minsheng Financial Leasing Co., Ltd.
28

1 (“Minsheng Financial”) and Minsheng Business Aviation Limited (“Minsheng Business,”
2 and with Minsheng Financial, “Minsheng”), but was unable to close the deal before his
3 fraud was discovered.

4 101. Fourth, at the same time, Cassidy was engaged in another Ponzi-like scheme
5 in which he sold “block hours” (pre-paid hours for a jet charter at a fixed price), as a means
6 of “extracting immediate cash to pay for obligations” even though Cassidy knew that the
7 Debtors would not be able to fulfill those hours. Those customers were left with millions of
8 dollars of worthless block hours when the Debtors failed and they did not get their money
9 back.

10 102. Cassidy knew that his actions would harm the Debtors and their creditors.
11 Between the inability to pay trade creditors and the inflated debt-service obligations as a
12 result of the transactions induced by bribes and kickbacks from the Fazal-Karim Defendants
13 and Bombardier, Zetta PTE was insolvent almost from inception, as discussed in more detail
14 below.

15 103. The Debtors were never able to recover. To the extent they were ever
16 technically solvent, and they were not, Cassidy almost immediately either used the funds as
17 down payments on additional planes or simply stole the money or used it for personal
18 purchases.

19 104. Despite continuous solvency, capital, and cash flow issues, with the help and
20 willing participation of his co-conspirators the Fazal-Karim Defendants and Bombardier,
21 Cassidy caused the Debtors to acquire 15 Planes for a total obligation of more than \$450
22 million. The sixteenth plane was a deal constructed to pay off a \$5 million obligation to
23 Element in part to relieve Jetcraft Corp. from a guarantee with Element and Fazal-Karim.

24 **F. The Transactions at Issue**

25 105. Over the course of Zetta PTE’s short existence, it entered into transactions
26 for 16 planes as set forth on Schedule 1.

27 106. Overview of Aircraft Financing Structures. The transactions for the planes
28 had a broadly similar structure. The Debtors would enter an aircraft purchase agreement

1 (“APA”) with Bombardier or a Jetcraft subsidiary. Under the terms of each APA, Zetta PTE
2 was required to pay [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 107. The Debtors never had enough money to purchase aircraft on their own.
10 Rather, the Debtors need to obtain financing from either the seller (in the case of Jetcraft
11 and Li) or from an aircraft financier (such as CAVIC, Element, and Minsheng) to acquire
12 aircraft.

13 108. The financing took one of two forms: (a) a direct secured loan from a
14 financier under which a debtor-controlled entity was a borrower and the financier was the
15 lender (the Jetcraft-Element structure—Planes 1 and 10) or (b) a “finance lease” where the
16 financier received the payment of principal and interest under the guise of “rent” paid under
17 a finance “lease” over a fixed term which, upon its conclusion, the Debtors could exercise
18 a nominal or free option to purchase the aircraft.

19 109. Under both structures, the financier did not own or operate the plane, but
20 simply received principal and interest payments from the Debtors, who would take on all
21 the risks and rewards of ownership. At closing (or before if the financier was paying the
22 progress payments), the financier (such as Element or CAVIC) would make a loan to Zetta
23 PTE to finance the purchase. At closing, the financier, the Debtors, and either TVPX or
24 Wells Fargo as owner-trustees or lessor-trustees would enter into a complex web of
25 agreements to effectuate the transaction.¹⁹

26 _____
27 ¹⁹ Planes 7 and 11 were slightly different because those planes were previously owned by
28 the financier and the deals thus were essentially self-financed. Li (through one of his
entities) purchased Plane 7 from Bombardier in 2015, then leased it to Zetta PTE for a

1 110. The transactions were domestic in nature because they involved transactions
2 and obligations incurred in the US. The closings always took place, and the obligations
3 under the agreements were incurred, in the US. The principal parties (usually corporate
4 trustees) to the transactions were always US citizens to comply with FAA US citizenship
5 requirements. The signature pages of the parties were gathered by FAA counsel or corporate
6 trustees and released to each other in the US. The documents were immediately filed with
7 the FAA in Oklahoma City, Oklahoma. The planes were delivered and accepted in the US
8 (typically at Windsor Locks, Connecticut to avoid state sales tax).

9 111. Zetta USA. Zetta USA played two key roles in the transactions.

10 112. First, Zetta USA was the “operator” of planes under FAA regulations under
11 its Part 135 Certificate and thus the actual lessee (under a lease from Zetta PTE), or sub-
12 lessee (from TVPX), under the operational lease documents that were conditions precedent
13 before the transactions could go effective. Without Zetta USA and its Part 135 operator
14 status (which is recognized around the world), the Debtors could not operate charter flights,
15 either in the US or elsewhere. Thus, it was essential that Zetta USA become a party to the
16 transactional documents to ensure that the Debtors could generate revenue from flights both
17 within and outside the US. Zetta PTE could not operate charter flights to, from, or within
18 the US because it did not have and could not get a Part 135 Certificate. So all of the Planes
19 would be leased or sub-leased to Zetta USA and registered under Zetta USA’s Part 135
20 Certificate.

21 113. To comply with certain FAA regulatory requirements, the Debtors’ principal
22 base of operations needed to be in the US. The Debtors’ principal base of operations was
23 located at all relevant times in Burbank, California.

24 114. To comply with certain FAA regulatory requirements, the Director of
25 Maintenance, Chief Pilot, and Director of Operations were required to be direct employees

26 _____
27 period. Zetta PTE then purchased Plane 7 (along with Plane 6) in December 2015. These
28 Planes were later refinanced with Minsheng in September 2016 in a broadly similar
structure. Plane 11 was previously owned by Element and was acquired by Zetta PTE under
a finance lease from Element.

1 of Zetta USA. Each of these individuals was at all relevant times employed by Zetta USA
2 and based in Burbank, California. If these individuals had not continued to occupy these
3 positions or been replaced with similarly situated individuals, Zetta USA's Part 135
4 certificate could have been revoked.

5 115. To comply with certain FAA regulatory requirements, the president and two-
6 thirds or more of the board of directors and other managing officers of Zetta USA were
7 required to be citizens of the US and at least 75 per cent of the voting interests of Zetta USA
8 were required to be owned or controlled by persons who are citizens of the US.

9 116. Second, Zetta USA signed guarantees for all of the obligations under the
10 aircraft financing documents.

11 117. Details of Specific Transactions. In rough chronological order (although
12 with some overlap based on how Bombardier, Fazal-Karim, and Cassidy negotiated and
13 structured the transactions), these transactions occurred in the following rough groups:

- 14 a. the "First Element Transaction" (regarding Plane 1);
- 15 b. the "CAVIC Transactions" (regarding Planes 2-5);
- 16 c. the "Li / Minsheng Transactions" (regarding Planes 6-7);
- 17 d. the "Bombardier Purchase Orders" (regarding Planes 8-9);
- 18 e. the "Second Element Transaction" (regarding Planes 10-11);
- 19 f. the "Minsheng Refinancing" and the "Challenger Transactions," in which
20 the Debtors refinanced Planes 6-7 to pay off Li and purchase Planes 12-15;
21 and
- 22 g. the "Falconwing Transaction" (regarding Plane 16).

23 The specific details for each Plane are set forth on Schedule 1.

24 **a. The First Element Transaction**

25 118. The First Element Transaction involved the purchase of a Bombardier
26 Global 5000 ("Plane 1") from Jetcraft's subsidiary Jetcoast in a transaction financed by
27
28

1 Element.²⁰

2 119. On November 19, 2015, Cassidy on behalf of Zetta PTE executed a letter of
3 intent with Element to purchase Plane 1.

4 120. On December 5, 2015, Cassidy on behalf of Zetta PTE entered into an
5 Aircraft Purchase Agreement (the “Plane 1 APA”) with Jetcraft Corp. and Jetcoast for Plane
6 1.

7 121. The transaction closed on December 30, 2015. Element Aviation entered
8 into an Aircraft Loan Agreement (the “Plane 1 Loan Agreement”) with Zetta PTE (through
9 one of the Zetta BVI Subsidiaries, Zetta Jet 5000-1) to finance the purchase. The same day,
10 Zetta USA (then still AAM) agreed to guarantee the operating lease on the aircraft. Element,
11 the Debtors (including through Zetta Jet 5000-1), and TVPX entered into a complex web of
12 other agreements to effectuate the transaction. The agreements relating to the First Element
13 Transaction are identified on Schedule 2.²¹

14 122. Seagrim and Walter executed the directors’ resolutions and other
15 transactional documents in California.

16 123. Zetta PTE was required to pay Jetcraft Corp. and Jetcoast a deposit of [REDACTED]
17 [REDACTED] within [REDACTED] days of executing the APA and the balance of [REDACTED]
18 at closing. If Zetta PTE refused delivery or breached the APA, Jetcraft Corp. and Jetcoast’s
19 [REDACTED]

20 124. Zetta PTE wired [REDACTED] for Plane 1 to Jetcraft Corp.’s bank account
21 in New York on December 10, 2015.

22 125. The Plane 1 transaction closed on December 30, 2015.

23
24 ²⁰ See Bombardier, *Zetta Jet Expands Fleet with Purchase of a Global 6000 Business Jet*
25 *and Options for Four Additional Global Aircraft*, Dec. 15, 2015, available at
26 <https://www.bombardier.com/en/media/newsList/details.bombardierbusinessaircraft20151215zetta-jet-expands-fleet-with-p.bombardiercom.html?filter-bu=all&f-year=2015&f-month=11&f-type=all&show-by-page=50&page=1&f-min-year=2002>, a true and correct
27 copy of which is attached hereto as Exhibit 9.

28 ²¹ Each of the agreements and other transactional documents in Schedule 2 is attached as an
exhibit to Schedule 2, and is expressly incorporated in this Complaint in its entirety in
accordance with Fed. R. Civ. P. 10(c) and Fed. R. Bankr. P. 7010.

1 126. On December 30, 2015, Zetta PTE (through one of the Zetta BVI
2 Subsidiaries, Zetta Jet 5000-1) sent a direction of funds letter to Element Aviation, which
3 confirmed the advance of the loan of \$37.8 million and authorized and directed Element
4 Aviation to disburse \$37.8 million to Jetcoast.

5 127. On December 30, 2015, AAM wired [REDACTED] for Plane 1 from AAM's
6 bank account in California to Jetcraft Corp.'s bank account in New York, which Anderson
7 confirmed on an email that copied, among others, Cassidy and Fazal-Karim.

8 128. On January 5, 2016, Zetta PTE wired [REDACTED] for Plane 1 to Jetcraft
9 Corp.'s bank account in New York.

10 129. At the time the transaction closed, Plane 1 was located in Cahokia, Illinois.
11 Plane 1 was based out of AAM's operations center in Burbank, California, after the closing.

12 130. Fazal-Karim, Jetcraft Corp., and Jetcoast received [REDACTED] in commissions
13 and [REDACTED] in other profits on Plane 1.

14 131. The First Element Transaction was domestic in nature because it involved
15 transactions and obligations incurred in the US, including:

- 16 a. The parties deliberately decided to consummate closing in the US to comply
17 with FAA regulations and ensure operation of the Plane 1 under Zetta USA's
18 Part 135 certificate.
- 19 b. The closing occurred, and FAA counsel filed closing documents in,
20 Oklahoma City.
- 21 c. The Debtors accepted delivery of Plane 1 at Cahokia, Illinois.
- 22 d. The parties agreed that the transaction would be governed by New York law
23 and that the parties and property would be subject to jurisdiction in New
24 York.
- 25 e. Upon information and belief, payment for Plane 1 was sent through
26 Wachovia Bank in New York as a correspondent bank.
- 27 f. Bank of Utah, the US lessor trustee, signed and became obligated in the US.
- 28 g. The Debtors' signature pages were released in Oklahoma City.

1 132. As part of the First Element Transaction, Jetcraft Corp. and Element
2 Aviation entered into a Repurchase Agreement dated December 30, 2015 (the “Plane 1
3 Repurchase Agreement”). Under the Plane 1 Repurchase Agreement, Jetcraft Corp. agreed
4 that if the Debtors defaulted on their obligations on Plane 1, Jetcraft Corp. would [REDACTED]

5 [REDACTED]
6 [REDACTED]
7 **b. The CAVIC Transactions**

8 133. At the same time and expressly as part of the same negotiations involving
9 Plane 1, Cassidy negotiated and entered into a letter of intent to purchase 6 additional Global
10 6000s directly from Bombardier. Planes 2-5 and 6 (which was nominally purchased by one
11 of Li’s entities) were part of the letter of intent.

12 134. In October and November 2015, at the same time Cassidy and Fazal-Karim
13 were negotiating letters of intent relating to Plane 1, Cassidy and Fazal-Karim were also
14 negotiating letters of intent to purchase five to six additional Global 6000s directly from
15 Bombardier. Cassidy on behalf of Zetta PTE ultimately executed a letter of intent with
16 Bombardier to purchase six planes, including Planes 2-6, on or about November 18, 2015.

17 135. Cassidy, on behalf of Zetta PTE, executed four APAs with BAC (the “Plane
18 2-5 APAs”) on December 10, 2015, for four Global 6000s (“Planes 2-5” and collectively,
19 the “CAVIC Aircraft”), directly from Bombardier.

20 136. Under the Plane 2-5 APAs, [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 137. To complete the purchase of the CAVIC Aircraft, the Debtors obtained
26 financing from CAVIC through a finance lease structure. At the closing on each plane, the
27 Debtors (through TVPX) entered into finance lease agreements with CAVIC (through the
28 CAVIC Statutory Trusts). Specifically, on or around May 24, 2016, the Debtors (through

1 TVPX as owner trustee) entered into a finance lease with CAVIC (through the ZJ6000-1
2 ST) for Plane 2. On or around September 16, 2016, the Debtors (through TVPX as owner
3 trustee) entered into a finance lease with CAVIC (through the ZJ6000-2 ST) for Plane 3.
4 On or around December 23, 2016, the Debtors (through TVPX as owner trustee) entered
5 into a finance lease with CAVIC (through the ZJ6000-3 ST) for Plane 4. On the same days,
6 TVPX entered into mirror sub-leases with Zetta USA.

7 138. In order to repay CAVIC for the financing, the Debtors made payments
8 through the mechanism of “lease” payments under the finance lease. The parties’ intent and
9 the economic realities of the transactions indicate that the arrangements between the parties
10 were finance leases, not operating leases.

11 139. The finance leases were entered into by TVPX, acting as trustee for the
12 ultimate benefit of the Debtors. TVPX had no discretion in its actions under the finance
13 leases. By the “sub-leases,” all responsibility and obligations under the finance leases were
14 passed from TVPX to Zetta USA. The “sub-leases” mirrored the finance leases in terms of
15 amount of “rent” (including interest) and other non-financial obligations. TVPX never made
16 or received payments on the CAVIC Aircraft. In other words, the Debtors were the true
17 parties in interest in the finance leases.

18 140. The parties’ intent to enter into a finance lease, rather than a true or operating
19 lease, is evidenced by, among other things:

- 20 a. Zetta PTE was [REDACTED]
21 [REDACTED]
- 22 b. Zetta PTE’s option (exercised through its subsidiaries and TVPX) to
23 purchase the CAVIC Aircraft [REDACTED]
24 [REDACTED]
- 25 c. [REDACTED]
26 [REDACTED]
27 [REDACTED]
28

1 d. The “head leases” are “net leases,” [REDACTED]

2 [REDACTED]
3 [REDACTED]
4 e. The outstanding “rent” (i.e., the financed amount) accrued interest, and,
5 upon default, accrued default interest;

6 f. The “rent” was calculated based upon the principal amount and interest that
7 CAVIC owed EDC under its loan borrowed under its Facility Agreement
8 with EDC and floating rates in interest charged under that facility;

9 g. The final payment of “rent” was calculated to be the final amount that was
10 due to EDC by CAVIC under the Facility Agreement;

11 h. [REDACTED]
12 [REDACTED] and

13 i. [REDACTED]

14 141. Had all obligations been fulfilled under the operative documents, CAVIC
15 would have had no residual ownership interest in the CAVIC Aircraft. Thus, the parties
16 intended for the Debtors to own the CAVIC Aircraft after completion of all payments,
17 which were made up of the principal loan made to the Debtors (in the form of a financing),
18 plus interest.

19 142. The CAVIC transactions were domestic in nature because they involved
20 transactions and obligations incurred in the US, including:

21 a. The parties deliberately decided to consummate closing in the US to comply
22 with FAA regulations and ensure operation of Planes 2-5 under Zetta USA’s
23 Part 135 certificate.

24 b. The closings occurred, and FAA counsel filed closing documents in,
25 Oklahoma City.

26 c. TVPX was the Registered Owner under applicable FAA regulations.

27 d. The Debtors accepted delivery of Planes 2-4 (and would have accepted
28 delivery of Plane 5) at Windsor Locks, Connecticut.

1 e. The payments for Planes 2-5 were sent to BAC's Bank of America account
2 in Texas.

3 f. TVPX, the US lessor trustee, signed and became obligated in the US.

4 g. The Debtors' signature pages were released in Oklahoma City.

5 143. Zetta PTE made transfers to BAC for the CAVIC Aircraft, including \$1
6 million (\$250,000 for each Plane) on December 4, 2015; \$10 million on February 16, 2016;
7 \$10 million on March 8, 2016; \$1.2 million on March 28, 2016; \$2.4 million on or about
8 June 30, 2016 (which were originally made in connection with Planes 8 and 9 but later
9 transferred to Plane 4 on March 24, 2017); \$3,091,334 on March 28, 2017; and \$3,262,834
10 on June 27, 2017. The Debtors also made transfers to BAC consisting of a total of \$120.36
11 million in loan proceeds from CAVIC.

12 144. Plane 2 was delivered on or about May 24, 2016.

13 145. Plane 3 was delivered on or about September 22, 2016.

14 146. Plane 4 was delivered on or about March 28, 2017.

15 147. Plane 5 was never delivered.

16 148. Fazal-Karim personally received commissions of [REDACTED] on each of
17 Planes 2-5.

18 **c. The Li / Minsheng Transactions**

19 149. Also in December 2015, Cassidy worked with Li (who eventually became a
20 shareholder and director of Zetta PTE) to acquire two additional Global 6000s, one that Li
21 had purchased earlier that Zetta PTE was already operating and a second that was part of
22 the same combined transaction negotiated by Fazal-Karim along with Planes 1 and 2-5.

23 150. In October and November 2015, at the same time Cassidy and Fazal-Karim
24 were negotiating letters of intent relating to Plane 1, Cassidy and Fazal-Karim were also
25 negotiating letters of intent to purchase five to six additional Global 6000s directly from
26 Bombardier. Cassidy indicated to Fazal-Karim that one of these Global 6000s would be
27 "assigned" to Li.

28 151. At the same time, Li and Cassidy discussed having Zetta PTE purchase a

1 Global 6000 (“Plane 7”) from Li’s company, Universal Leader. Universal Leader had
2 purchased Plane 7 in the summer of 2015 and Zetta PTE had been operating Plane 7 under
3 a separate arrangement. Cassidy offered Li a guaranteed 10 percent return, which was
4 approximately double the market rate for similar transactions.

5 152. In December 2015, Universal Leader transferred \$48 million into Zetta
6 PTE’s bank account. Upon information and belief, there was no formal loan documentation
7 regarding the transfer of these funds prior to their transfer. The funds were commingled
8 with other funds in Zetta PTE’s account.

9 153. On December 10 and 28, 2015, respectively, Zetta PTE transferred \$46.3
10 million and then \$1 million from its Singapore account to BAC’s Bank of America bank
11 account in Texas toward the purchase of another Global 6000 (“Plane 6”). Even though
12 Zetta PTE paid Bombardier directly for Plane 6 (using loan proceeds from Universal
13 Leader), Zetta PTE did not receive title to Plane 6. Zetta PTE then entered into a finance
14 lease arrangement with Glove Assets (not Universal Leader, although both entities are
15 controlled by Li) regarding Plane 6.

16 154. Fazal-Karim received a [REDACTED] commission from Bombardier for the
17 Plane 6 transaction.

18 155. Fazal-Karim refused, however, to disclose the commission to Glove Assets’
19 owner, Li, as required under the agreement, stating to Mattar in a December 28, 2015, e-
20 mail: “I can’t be representing I will disclose to Mr. Li I am making a few!!” On December
21 29, 2015, Bombardier amended the Sales Representative Agreement to list Zetta PTE as the
22 buyer.

23 156. Later in December 2015, Cassidy agreed to acquire Plane 7 from Universal
24 Leader in a finance lease arrangement.

25 157. On or about December 29, 2015, Cassidy on behalf of Zetta PTE entered
26 into a Master Aircraft Finance Lease (the “2015 Plane 7 MAFL”) with Universal Leader to
27 “lease” Plane 7 under a finance lease, rather than a true lease. The 2015 Plane 7 Finance
28 Lease attached a Supplemental No. 1 Aircraft Finance Lease Purchase Option Agreement

1 (together with the 2015 Plane 7 MAFL, the “2015 Plane 7 Finance Lease”). The “aircraft
2 price” for Plane 7 under this agreement was \$50 million, even though it had been flying for
3 almost six months and had several hundred flight hours on it at that point.

4 158. On or about December 29, 2015, Zetta PTE entered into a Master Aircraft
5 Finance Lease (“2015 Plane 6 MAFL”) with Glove Assets to “lease” Plane 6 under a finance
6 lease structure. The 2015 Plane 6 MAFL attached a Supplemental No. 1 Aircraft Finance
7 Lease Purchase Option Agreement (the “2015 Plane 6 Purchase Option” and, together with
8 the 2015 Plane 6 MAFL, the “2015 Plane 6 Finance Lease”).

9 159. Although the 2015 Plane 6 Finance Lease used the term “lease” in its title, it
10 was not a “true” or “operating” lease under which a lessee and a lessor agree for the lessee
11 to rent an asset at a monthly fair usage charge with the lessor retaining the residual
12 ownership interest, and risks attendant to such ownership interest, at the conclusion of the
13 lease term.

14 160. Rather, the terms of the finance lease indicated it was actually a form of
15 secured financing. The “lessee” was granted the full residual economic ownership of the
16 asset, and attendant risks thereto, at the inception of the lease in exchange for the payment
17 of principal and interest over the lease term, including a final \$20 million balloon payment
18 to be paid at the end of the lease. The obligations could not be terminated by the lessee,
19 except for a portion of interest if an onerous prepayment penalty was paid. Thus, the
20 “finance lease” was, in fact and in law, a loan under which the lessee acquired the economic
21 ownership of the asset secured by lessor’s retention of title until the lessee paid the principal
22 and interest, including the final balloon payment, due under the term of the lease at which
23 point the lessee could exercise a purchase option for no additional consideration.

24 161. The free purchase option at the end of the repayment term, coupled with
25 Zetta PTE’s inability to terminate the finance lease, rendered the 2015 Plane 6 Finance
26 Lease a financing as a matter of law, under either US or Singapore law, in that Zetta PTE,
27 not Glove Assets, was the true economic owner of Plane 6 and had the sole residual equity
28 interest in Plane 6 following the term of the finance lease.

1 162. In particular, Zetta PTE was obligated to pay \$50 million in 60 monthly
2 installments at an effective annual interest rate of 12% including a final \$20 million balloon
3 payment at the end of the term. Annex 4 to the Supplement specifically broke down the 60
4 monthly “lease payment[s]” into “principal” and “interest” components to arrive at an
5 effective interest rate over the 60-month term of 12%.

6 163. If Zetta PTE paid off the balance early, it was required to pay an onerous
7 prepayment penalty equal to 50% of the remaining interest due under the 60-month term.
8 Once all payments were made, Glove Assets was required to convey title to Zetta PTE.
9 Specifically, before the final balloon payment was made, Zetta PTE had the “option” of
10 purchasing the aircraft when it paid the balloon payment. However, because Zetta PTE was
11 already obligated to make the balloon payment irrespective of whether it exercised the
12 option, Zetta PTE’s exercise of the purchase option was for no additional consideration.

13 164. Except for an early termination that triggered the prepayment penalty
14 discussed above, Zetta PTE was obligated to pay all principal and interest for the entire 60-
15 month term. It could not otherwise terminate the 2015 Plane 6 Finance Lease.

16 165. Cassidy and Li consistently treated the 2015 Plane 6 Finance Lease as a loan
17 to Zetta PTE, and not a true lease or operating lease, in all of their discussions and
18 negotiations. In addition, the \$50 million loan (subsequently used to fund the purchase price
19 for Plane 6) was recorded on the Debtors’ books and records as a loan to Zetta PTE and
20 Plane 6 was carried as an asset on Zetta’s consolidated balance sheet. As a director of Zetta
21 PTE, Li reviewed the books and records of Zetta PTE and affirmatively approved the
22 description of the 2015 Plane 6 Finance Lease as a loan to Zetta PTE, and not a lease, and
23 Plane 6 as an asset of Zetta.

24 166. The 2015 Plane 6 Finance Lease closed in the US, the relevant documents
25 were filed with the FAA, the aircraft was delivered to Zetta in the US and was registered
26 with the FAA, and all of the obligations of the Debtors were incurred in the US at closing.

27 167. In particular, the law firm Crowe Dunlevy in Oklahoma City, Oklahoma
28 acted as closing agent for the parties and assembled all of the signature pages on the

1 transaction documents from the parties. On December 29, 2015, Plane 6 was delivered to
2 debtor Zetta Jet PTE at Bombardier's facility in Windsor Locks, Connecticut, USA.

3 168. In the Form of the Acceptance Certificate which was required to be executed
4 as part of, and attached as Exhibit D to, the 2015 Plane 6 Finance Lease, Zetta PTE
5 confirmed that it accepted Plane 6 "at the Delivery Location [i.e., Windsor Locks,
6 Connecticut]" on December 29, 2015 and "became obliged to pay" Glove Assets "the
7 amounts provided for in the [Lease]".

8 169. Upon receipt of the Acceptance Certificate, the parties released signature
9 pages to the closing agent in Oklahoma City, Oklahoma, and the 2015 Plane 6 Finance
10 Lease was consummated in Oklahoma City, Oklahoma, USA.

11 170. Pursuant to the finance lease documents, all of the payments Zetta PTE made
12 under the 2015 Plane 6 Finance Lease were required to be made and, in fact, were made, to
13 Universal Leader's US bank account at HSBC Bank in New York, USA. *See* Exh. B-2,
14 2015 Plane 6 Purchase Option, at § 3.26 ("Payment Location" means in relations to all
15 payments hereunder: HSBC Bank, New York, USA, SWIFT code: MRMDUS33, Federal
16 Routing number code : 021001088, For credit to: a/c [REDACTED] THE HONGKONG &
17 SHANGHAI BANKING CORPORATION LIMITED, HONG KONG PRIVATE
18 BANKING DIVISION, BIC: HSBCHKHHPBD, In favour of: Universal Leader Investment
19 Limited. A/C: [REDACTED]).

20 171. Both the 2015 Plane 6 Finance Lease and the 2015 Plane 7 Finance Lease
21 contained significantly above-market returns for Li and his entities. The agreements called
22 for an effective interest rate of 12% per year over a 60-month term with a balloon payment
23 of \$20 million. A 12% interest rate on a secured aircraft financing was well above market.

24 172. The agreements also contained interest prepayment penalties that required
25 the Debtors to pay 50% of the remaining interest payments upon an early "purchase"
26 (including a refinancing) of the agreements to Universal Leader and/or Glove Assets. The
27 standard market rate for a prepayment penalty in the aircraft financing industry ranges
28 between 3% and 5%.

1 173. The 2015 Plane 6 Finance Lease was domestic in nature because it involved
2 transactions and obligations incurred in the US, including:

- 3 a. The parties deliberately decided to consummate closing in US to comply
4 with FAA regulations and ensure operation of Plane 6 under Zetta USA's
5 Part 135 certificate.
6 b. Wells Fargo, the US lessor trustee, signed and became obligated in the US.
7 c. Zetta PTE accepted delivery of Plane 6 in Windsor Locks, Connecticut.
8 d. The closing occurred, and FAA counsel filed closing documents in
9 Oklahoma City.
10 e. The Debtors' signature pages were released in Oklahoma City.

11 174. Shortly thereafter, in February 2016, Li caused a third entity, Truly Great, to
12 invest \$19 million in exchange for a 10% interest in Zetta PTE and loaned \$10 million to
13 Zetta PTE at an above-market interest rate. Li also became a Director of Zetta PTE. Cassidy
14 used approximately \$20 million of these funds to pay deposits and payments on the CAVIC
15 Aircraft.

16 175. In early March 2016, Cassidy began inquiring about purchasing a \$3.4
17 million, 70-foot yacht called the Dragon Pearl. On May 16, 2016, Cassidy signed a contract
18 with Maritimo Offshore Pty Ltd. ("Maritimo") to purchase the Dragon Pearl.

19 **d. The Bombardier Purchase Agreements**

20 176. On February 6, 2016, shortly after the initial purchases and at approximately
21 the same time as the influx of cash from Li's initial investment, Cassidy executed two
22 additional APAs for two additional Global 6000s ("Planes 8 and 9").

23 177. Similar to the Plane 2-5 APAs, [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]

28 178. These two additional aircraft had not even been delivered when the Debtors

1 filed for bankruptcy nearly 18 months later.

2 179. Fazal-Karim was entitled to additional commissions of [REDACTED] each on
3 Planes 8 and 9, the same as on Planes 2-5, but it is not clear if these commissions were paid
4 because the Planes were never delivered. On July 14, 2016, an FK Group employee
5 informed Fazal-Karim that his commission for the two next Zetta planes would be [REDACTED]
6 rather than [REDACTED]. Fazal-Karim e-mailed Mattar the next day that this reduction was
7 “absolutely unacceptable considering all the work and expenses I incur on this account and
8 the pricing we are achieving with Zetta. I have never agreed to a fee reduction. Where is
9 this [REDACTED] coming from??” Mattar replied that he was not informed of the changes and that
10 he had already signed off on all commissions on the Zetta deals, but would look into it.

11 180. Cassidy on behalf of Zetta PTE transferred \$100,000 to Jetcraft Asia on
12 April 8, 2016, shortly after these purchases. The reason for this transfer is unclear.

13 **e. The Second Element Transaction**

14 181. In August and September 2016, with the Debtors now on life support and,
15 by Cassidy’s estimation, only “breathing room of 1.5 months,” Cassidy again acquired more
16 planes from Jetcraft (through Fazal-Karim) and Element. In the Second Element
17 Transaction, Cassidy received a \$500,000 kickback as part of the Debtors’ purchase of a
18 Bombardier plane (“Plane 10”) from Orion, a Jetcraft affiliate. As part of the same deal, the
19 Debtors also agreed to lease another Bombardier plane (“Plane 11”) owned by Element.

20 182. By no later than June 14, 2016, at a time when Cassidy was supposedly
21 trying to “keep[] off the wolves,” Cassidy and Fazal-Karim began discussing the purchase
22 of Plane 10.

23 183. Orion, a Jetcraft affiliate, had initially purchased Plane 10 in December 2015
24 from an unrelated third party in a deal financed by Element. Under the loan agreement,
25 [REDACTED] The first
26 interest payment of [REDACTED] was due on June 30, 2016.

27 184. On June 14, 2016, Cassidy and Fazal-Karim began discussing the purchase
28 of Plane 10, and Element began to draft financing proposals for the Debtors.

1 185. On June 19, 2016, Element internally circulated a financing proposal for the
2 Debtors' purchase of Plane 10 for a purchase price of \$48.8 million.

3 186. On June 20, 2016, Fazal-Karim contacted Element to postpone his interest
4 payments until the earlier of ninety days or the sale of Plane 10.

5 187. On June 27, 2016, Element submitted a transaction overview to its credit
6 committee for approval to "[p]ostpone the interest payment that is due on June 30, 2016 to
7 September 30, 2016." The rationale was that Plane 10 "should be sold to Zetta Jet . . . Full
8 payout on the closing of the sale."

9 188. On August 30, 2016, Cassidy on behalf of Zetta PTE (through one of the
10 Zetta BVI Subsidiaries, Zetta Jet 6000-1) entered into an aircraft purchase agreement with
11 Jetcraft Global and Orion for Plane 10 (the "Plane 10 APA"). Zetta USA agreed to guarantee
12 the operating lease on the aircraft, and Element Aviation entered into a loan agreement (the
13 "Plane 10 Loan Agreement") with Zetta PTE (through one of the Zetta BVI Subsidiaries,
14 Zetta Jet 6000-1) to finance the purchase.

15 189. On September 22, 2016, Element, the Debtors (including Zetta Jet 6000-1),
16 and TVPX entered into a complex web of agreements to effectuate the transaction. The
17 Debtors did not make a down payment, as they had in the First Element Transaction.

18 190. Seagrim and Walter executed the directors' resolutions and other
19 transactional documents in California.

20 191. The same day, Zetta PTE (through one of the Zetta BVI Subsidiaries, Zetta
21 Jet 6000-1) sent a direction of funds letter to Element Aviation, which confirmed the
22 advance of the loan of [REDACTED] and authorized and directed Element Aviation to
23 disburse [REDACTED] to Orion.

24 192. As part of the same deal, the Debtors also agreed to acquire Plane 11. Earlier
25 drafts of the Plane 10 loan agreement included a default if the Plane 11 transaction did not
26 close within 30 days. Although that provision did not make it into the loan agreement
27 because both Planes closed on the same day, the Debtors agreed that a default on either of
28 those transactions would also be a default of the loan agreement for Plane 1.

1 193. On September 22, 2016, the same day that the Debtors purchased Plane 10,
2 ECN and TVPX entered into an “Aircraft Lease” (the “Plane 11 Master Lease”), and TVPX,
3 as sub-lessor, leased Plane 11 to Zetta PTE, as sub-lessee, pursuant to an Aircraft Operating
4 Sub-Lease Agreement dated September 22, 2016 (the “Plane 11 Sub-Lease”).

5 194. The Plane 11 Master Lease and the Plane 11 Sub-Lease (collectively, the
6 “Plane 11 Finance Lease”) was a finance lease, not a true lease. The Plane 11 Finance Lease
7 ultimately operated as the sale of Plane 11 to Zetta PTE with 84 payments of \$390,000 made
8 to ECN over seven years and a mandatory purchase obligation of \$18.5 million at the end
9 of the “lease.” In total, the Debtors were obligated to pay \$51.3 million for Plane 11 over
10 seven years.

11 195. On September 22, 2016, Cassidy executed a certificate of director of Zetta
12 PTE to enter into the Plane 11 Finance Lease.

13 196. At the same time, Element, the Debtors (including a Zetta BVI Subsidiary,
14 Zetta 5000-2), and TVPX entered into a complex web of agreements to effectuate the
15 transaction. The agreements are identified on Schedule 2.

16 197. Fazal-Karim, Jetcraft Corp., and Jetcoast received [REDACTED] in
17 commissions and [REDACTED] in other profits on Plane 10. Jetcraft Corp. also received a
18 [REDACTED] “broker fee” from Element for facilitating the Plane 11 transaction.

19 198. The Second Element Transaction was domestic in nature because it involved
20 transactions and obligations incurred in the US, including:

- 21 a. The parties deliberately decided to consummate closing in the US to comply
22 with FAA regulations and ensure operation of the Plane 10 under Zetta
23 USA’s Part 135 certificate.
- 24 b. The closing occurred, and FAA counsel filed closing documents in,
25 Oklahoma City.
- 26 c. The Debtors accepted delivery of Plane 10 and, upon information and belief,
27 Plane 11, in Cahokia, Illinois.

1 d. The parties agreed that the transaction would be governed by New York law
2 and that the parties and property would be subject to jurisdiction in New
3 York.

4 e. Upon information and belief, payment for Planes 10 and 11 was sent through
5 Wachovia Bank in New York as a correspondent bank.

6 f. Bank of Utah, the US lessor trustee for Plane 10, and TVPX, the US lessor
7 trustee for Plane 11, signed and became obligated in the US.

8 g. The Debtors' signature pages were released in Oklahoma City.

9 199. As part of the Second Element Transaction, Jetcraft Corp. and Element
10 Aviation entered into a Repurchase Agreement dated September 22, 2016 (the "Plane 10
11 Repurchase Agreement"). Under the Plane 10 Repurchase Agreement, [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 **f. The Minsheng Refinancing and Challenger Transactions**

17 200. At the same time he was entering into additional transactions with Element
18 (without down payments), Cassidy was working to engineer a refinancing of Planes 6 and
19 7 that resulted in a significant, above-market payout to his initial investor and enabled
20 Cassidy to cause the Debtors to purchase even more aircraft. Cassidy told the other directors
21 on June 28, 2016, that they had "no choice" but to do a deal. He would try to "keep[] off
22 the wolves" until the funds from the refinancing came in, but they only had "breathing room
23 of 1.5 months." Cassidy did not tell the other directors that he would take almost \$5 million
24 for himself from the transaction.

25 201. Zetta PTE was unable to pay the debt service on the finance leases for Planes
26 6 and 7 and the above market loan to Li (let alone the other obligations it incurred). Thus,
27 in September 2016, Cassidy engineered an insider transaction with Li to refinance the
28 Universal Leader and Glove Assets debt.

1 202. The Minsheng Refinancing was highly unfair to the Debtors' estates. On its
2 face, it saddled the Debtors' estates with at least an additional incremental \$10 million in
3 liabilities on top of the already lopsided debt incurred in the 2015 transactions and even
4 more if Cassidy's immediate theft of closing funds are deducted. In September 2016, Li
5 was able to cash out approximately \$55 million from the refinancing in exchange for Plane
6 7 (a 33% annualized return), a plane that was worth only \$35.7 million at fair market value
7 and \$22.7-28.7 million when valued from the estates' perspective. Meanwhile, by reason of
8 keeping the 2015 finance lease debt intact for Plane 6, the Debtors were forced to pay double
9 the amount of debt service to use Plane 6, one debt service payment to Yuntian 3 and a
10 second payment to Glove Assets. This double debt service resulted in the Debtors' incurring
11 obligations totaling \$113,483,566 (under the new 2016 Plane 6 finance lease and the
12 payments under a new unsecured loan) for the use of Plane 6 over 60 months when they
13 would have only have had to pay \$42,579,167 to a third party lender for debt service on a
14 comparable aircraft at fair market value with market interest rates over the same period.

15 203. In June 2016, Cassidy approached Li about refinancing Zetta PTE's
16 purchase of Planes 6 and 7. In a June 28, 2016, email, Cassidy informed Li that Minsheng
17 had agreed to refinance both planes by "purchasing" them (in reality, another finance lease)
18 for a total of \$80 million. Cassidy told Li that the proceeds from this \$80 million "refinance"
19 would provide capital to Zetta PTE to purchase additional planes. Cassidy thanked "uncle"
20 Li for his earlier support and told him that "We are partners and we are the priority over the
21 banks."

22 204. Of the \$80 million in proceeds, \$55 million would cover the full principal
23 balance owed under the 2015 Plane 7 Finance Lease plus \$8.6 million of the \$10.5 million
24 termination fee (with the remaining \$1.9 million being added to an unsecured loan along
25 with the full principal balance owed under the 2015 Plane 6 Finance Lease). The \$55 million
26 payment would guarantee Li a 33% annualized return on his eight-month finance lease to
27 Zetta PTE for Plane 7 (and that does not include the additional \$1.9 million that was added
28 to the new unsecured loan). Zetta PTE would receive \$12.6 million (of which Cassidy stole

1 almost \$5 million) and use the remaining \$12.4 million to make initial payments on four
2 Bombardier Challenger 650 planes (“Planes 12-15”) from Bombardier.

3 205. In connection with this proposed restructure, Li requested that if Zetta PTE
4 was unable to repay its debts as they became due, that Cassidy and Zetta PTE prefer Li over
5 other creditors (in particular, AVIC and Minsheng) and repay him first on his Plane 6
6 “personal money” loan. Specifically, on June 28, 2016, Li emailed Cassidy and wrote: “And
7 I know you want to [Plane 6] under the zettajet company, that means I take higher risk
8 because zettajet have nothing to guarantee, so you should promise if business is not good,
9 repay me first not mengshen and avic, they are company, I am the personal money.”

10 206. In the same exchange, Li also demanded an additional share of any future
11 profits of the company: “if in the future, zettajet has profit to split, I think I (and you if you
12 guarantee ms&avic by yourself, you take more risk too) will be have compensate, it should
13 be written down, for example, if profit is X, (X*10%) will be given you & me, then left
14 (X*90%) will be splitted according every one’s shares.” Upon information and belief, this
15 agreement was later documented in a letter agreement dated July 19, 2016, which was not
16 disclosed to or approved by the Debtors’ other, uninterested directors, Seagrim and Walter.

17 207. In a contemporaneous email sent to the Debtors’ only uninterested directors,
18 Seagrim and Walter (which did not include all of the details of the emails between Li and
19 Cassidy), Cassidy informed them that he had spoken to Li. Cassidy told them: “Ultimately
20 we have no choice . . . All in all we scoot through this we have breathing room of 1.5 months
21”

22 208. Cassidy misrepresented to and omitted from Seagrim and Walter material
23 parts of the agreement with Li and the result of the Minsheng Refinancing.

24 209. Cassidy misrepresented to Seagrim and Walter the nature of the negotiations
25 with Li, stating that Li “agreed after length” to lower the monthly payments on the loan,
26 when in fact Li had simply dictated terms to Cassidy.

27 210. Cassidy also misrepresented to Seagrim and Walter that one of the benefits
28 of the deal would be “Lower loan repayments,” when in fact the Debtors would have to pay

1 significantly more. Indeed, Cassidy understated the monthly payments due on Planes 6 and
2 7 in an attachment to the email by one-third.

3 211. Cassidy did not disclose to Seagrim and Walter that he had agreed to repay
4 Li first on the “personal money” Plane 6 loan.

5 212. Cassidy did not disclose to Seagrim and Walter that he had agreed to give Li
6 and himself an additional share of any future profits of the company.

7 213. Cassidy also did not disclose to Seagrim and Walter that he needed
8 immediate funds to pay for a yacht and that he would embezzle at least \$2.66 million from
9 the proceeds of the Minsheng Refinancing.

10 214. Because Li was directly or indirectly interested in the transactions involving
11 Planes 6 and 7 and the Minsheng Refinancing, he was not able to vote to approve this
12 transaction. Similarly, because Cassidy (and his wife Tang) were directly or indirectly
13 interested in this transaction due to the profit-sharing agreement, they were not able to vote
14 to approve this transaction. Accordingly, both Seagrim and Walter would have to approve
15 the transaction.

16 215. Seagrim and Walter’s approval of the Minsheng Refinancing was not based
17 on full, accurate information about the deal. Instead, Cassidy made material
18 misrepresentations and omissions while simultaneously telling Seagrim and Walter that
19 they had “no choice” but to accept the deal to keep the Debtors afloat.

20 216. The Minsheng Refinancing closed on September 21, 2016. The day after
21 closing, Cassidy took \$3.66 million as a “Director Fee—Geoffery Cassidy” and deposited
22 these funds into his personal bank account. Of this \$3.66 million taken by Cassidy, \$1
23 million was allegedly due and payable to Cassidy and his wife for their ultimate ownership
24 of equity in Asia Aviation, which was worthless. The remaining \$2.66 million was plainly
25 misappropriated by Cassidy, who went so far as to fabricate invoices to cover up his theft,
26 at the time of an audit in July 2017.

27 217. Cassidy also misappropriated an additional approximately \$1 million from
28 the Minsheng Refinancing to pay for a Singapore residence and an installment payment on

1 his Dragon Pearl yacht. On September 27, 2016, less than one week after closing, Cassidy
2 paid \$607,084 out of the closing proceeds for the third installment on the Dragon Pearl. On
3 September 30, 2016, Cassidy transferred \$336,030 from Zetta PTE's bank account to pay
4 for a deposit on his condominium in Singapore.

5 218. In addition, Cassidy used investor funds from Li and funds embezzled from
6 the Debtors to make the other prior and subsequent installment payments on the \$3.4 million
7 Dragon Pearl, and also caused the Debtors to hire and pay five employees to maintain and
8 operate the Dragon Pearl.

9 219. Although Cassidy framed the refinancing as vital to help the Debtors,
10 Cassidy's true purpose was to string out his aircraft debt and misappropriate the Debtors'
11 money, to the detriment of the Debtors and their creditors.

12 220. Cassidy also caused Zetta PTE to use \$12.4 million of the closing proceeds
13 to make initial payments on purchase agreements for Planes 12-15, only one of which, Plane
14 12, was ever delivered. The three remaining planes were never delivered to or used by the
15 Debtors.

16 221. At closing on the Minsheng Refinancing, \$12,410,240 was disbursed to
17 Minsheng Business for amounts allegedly due and owing by Zetta PTE on Planes 12-15.
18 Specifically, \$6,852,560 was applied towards the purchase of Plane 12 (consisting of an
19 upfront fee in the amount of \$602,560, a security deposit in the amount of \$870,000, and a
20 down payment in the amount of \$5,380,000) and \$5,557,680 was applied towards the
21 purchase of Planes 13-15.

22 222. Fazal-Karim negotiated the sales of Planes 12-15 on behalf of Bombardier.

23 223. Fazal-Karim was entitled to receive approximately [REDACTED] in total
24 commissions, but it is not clear if these commissions were paid because three of the four
25 Planes were never delivered.

g. The Falconwing Transaction: Cassidy pays off Fazal-Karim and Element on his way out

224. In August 2017, at a time when Cassidy admitted, in writing, that the Debtors were “unable to provide security that it can fulfill its obligations over time,” Cassidy manufactured a transaction to purchase a plane for block hours worth approximately \$11 million, then re-sell it to Jetcraft Global for [REDACTED] which Cassidy used to pay off a \$5 million debt to Element Aviation (and release a guarantee that Jetcraft Corp. had given to Element). Block hours would be worthless if the Debtors failed, and Cassidy was trading the promise of future returns to the sellers for present cash to keep his Ponzi-like scheme alive. It turned out to be far too little and far too late, but Cassidy was able to pay off Element (and more importantly, relieve an obligation owed by Jetcraft Corp.) on his way out the door, at the expense of the Debtors’ estates and other creditors.

225. As part of the Second Element Transaction, Zetta PTE was obligated to make a payment of \$5 million to Element Aviation on or before December 1, 2016 (the “Element Obligation”) and Jetcraft Corp. had entered into the Plane 10 Repurchase Agreement under which Jetcraft Corp. guaranteed that payment.

226. Zetta PTE was unable to pay the Element Obligation by December 1, 2016, and also had missed payments due on Planes 1, 10, and 11. Element threatened a default on all three planes. Zetta PTE and Element Aviation tolled the deadline to February 28, 2017, but Zetta PTE then missed that deadline as well.

227. On June 14, 2017, Fazal-Karim e-mailed O’Keefe and Bergeron informing them that he was going to meet with Cassidy and asked Element to “hold your guns until next week” (meaning to hold off from issuing a default notice to Zetta PTE for the repeated failure to pay the Element Obligation).

228. Cassidy was working on a deal to pay off the Element Obligation through a transaction to purchase a Bombardier Global 6000 (“Plane 16”) from Falconwing Limited (“Falconwing”), owned by Fok Kin Canning (“Fok”) and Wu Kebo (“Wu”) for \$11 million

1 (albeit paid in 1,500 block hours), and re-sell it to Jetcraft Global for [REDACTED] of which
2 \$5 million would be used to pay off the Element Obligation.

3 229. Element agreed to hold off on the default in an e-mail on June 20, 2017, and
4 on June 30, 2017, again tolled the deadline for the Element Obligation to the earlier of the
5 sale of Plane 16 or July 31, 2017.

6 230. In early August 2017, Zetta PTE executed an aircraft purchase agreement to
7 purchase Plane 16 from Falconwing for 1,500 block hours. The transaction documents
8 expressly valued Plane 16 at \$11 million. At approximately the same time, Zetta PTE and
9 Jetcraft Global executed an aircraft purchase agreement under which Zetta PTE would sell
10 Plane 16 to Jetcraft Global for [REDACTED] (which Cassidy would use to pay off the Element
11 Obligation to Element Aviation). In addition, Zetta PTE and Jetcraft Global entered into a
12 Side Letter Agreement dated August 9, 2017, [REDACTED]

13 [REDACTED] Fazal-Karim had already entered into one
14 LOI and received another LOI to re-sell Plane 16 at [REDACTED] (not including upgrades).

15 231. Cassidy entered into this transaction to benefit Element and Fazal-Karim (by
16 paying down \$5 million of the outstanding amount and thus decreasing the amount Jetcraft
17 Corp. would owe under the Plane 10 Repurchase Agreement), with whom he had a special
18 relationship, at the expense of other creditors, at a time when the Debtors were insolvent.

19 232. Cassidy admitted in an August 10, 2017, e-mail to Seagrim and Walter
20 defending the transaction that he had to increase the number of block hours because the
21 Debtors were “unable to provide security that it can fulfill its obligations over time,” were
22 “desperate for the deal and money,” and needed “urgent immediate cash to fulfill [their]
23 obligations.” As with almost all of his transactions, Cassidy said he was “extracting
24 immediate cash to pay for obligations” while “any downside of the transaction can be
25 realised in years to come when the company is stable.” Cassidy did not disclose the true
26 purpose of the transaction, to benefit Element and Fazal-Karim.

27 233. The Falconwing Transaction closed on August 15, 2017. On that day, the
28 Debtors made a transfer of \$5 million to Element Aviation. Specifically, Jetcraft Corp.

1 transferred [REDACTED] (the purchase price of Plane 16) from its Bank of America account
2 in North Carolina to the bank account in Oklahoma of Insured Aircraft Title Service
3 (“IATS”), who was acting as the escrow agent, which then transferred \$5 million to Element
4 at the Debtors’ direction.

5 234. On September 5, 2017, *after* his removal from the board of directors of the
6 Debtors and position as director, and *twelve days before the Petition Date*, Cassidy e-mailed
7 O’Keefe (of Element) and Fazal-Karim stating, “[i]t was good my last deed at Zetta was to
8 get the USD \$5m to you. Thanks to you and Element and JFK [Fazal-Karim] for the time
9 and assistance in closing that saga out.”

10 235. Cassidy concluded the e-mail by providing a warning to Fazal-Karim and
11 Element: “I take this time to warn you the company is insolvency and in dire need of life
12 support, to date over 100m of statutory demands have been made, please ensure you act
13 accordingly to cover your position.”

14 236. On or around December 28, 2017, Jetcraft Global entered into a contract to
15 sell Plane 16 to Thorney Alpha Pty Ltd for [REDACTED] After the deduction of costs, Zetta
16 PTE was entitled to \$387,500.48 under the Side Letter Agreement. Jetcraft Global has yet
17 to pay the amounts due and owing under the Side Letter Agreement to Zetta PTE.

18 **G. The kickbacks and bribes tainted each of the transactions**

19 237. Fazal-Karim, Jetcraft, and Bombardier (and their related entities) each paid
20 or caused commercial bribes to be paid to Cassidy in return for purchasing planes from
21 Jetcraft (and its related entities) and Bombardier.

22 238. Fazal-Karim directed Jetcraft’s CEO to pay Cassidy at least two kickbacks
23 through Jetcraft Global totaling \$1 million: \$500,000 as part of the combined transactions
24 involving Planes 1-6 in December 2015 and another \$500,000 in August 2016 as part of the
25 acquisition of Planes 10-15, as well as to ensure that Cassidy would not cancel contracts
26 worth hundreds of millions of dollars. Cassidy returned the favor: Fazal-Karim was
27 involved in *at least fifteen* of the sixteen Planes.

28 239. Bombardier was a participant from the beginning through the actions of its

1 agent Fazal-Karim, who directed the payment of the two \$500,000 kickbacks in deals that
2 were part of combined transactions involving direct purchases from Bombardier. In
3 addition, Bombardier directly paid Cassidy one bribe worth \$43,890 the day after he
4 threatened to cancel contracts worth more than [REDACTED] to Bombardier (which also
5 would have forced Bombardier to have to return more than [REDACTED] in prepayments).
6 Bombardier also agreed to pay Cassidy another bribe worth \$42,569, less than two weeks
7 before Cassidy induced the Debtors to sign 4 APAs for the Challenger Transactions as well
8 as accept delivery on Plane 3.

9 240. Once Cassidy accepted the kickbacks and became a corrupted fiduciary, all
10 of his subsequent transactions involving Fazal-Karim, Jetcraft, and Bombardier were
11 tainted.

12 **a. The First Kickback**

13 241. In November 2015, Fazal-Karim agreed to cause Jetcraft to pay Cassidy a
14 \$500,000 bribe (the “First Kickback”) fraudulently disguised to look like it was a part of
15 the purchase price of Plane 1. This kickback, fraudulently concealed and disguised as a
16 payment for undescribed “services,” was both a payoff for agreeing to use Fazal-Karim to
17 acquire all future planes from Jetcraft or Bombardier as well as an inducement to acquire
18 Plane 1 in the First Element Transaction and to acquire Planes 2-6 from Bombardier directly
19 as part of a letter of intent signed at the same time as the financing proposal for the First
20 Element Transaction.

21 242. The transactions for Planes 1-6 were part of a single deal negotiated by
22 Fazal-Karim, Yu, and Mattar on behalf of Jetcraft Corp., Jetcoast, and Bombardier.
23 Specifically, Cassidy e-mailed Fazal-Karim on September 16, 2015, that the Debtors were
24 on the market for “4-5x Global 6000 aircraft.”

25 243. Throughout October and November 2015, Fazal-Karim simultaneously
26 negotiated with Cassidy the sale of Plane 1 from Jetcraft subsidiary Jetcoast and the sale of
27 Planes 2-6 directly from Bombardier. Mattar, Yu, Fazal-Karim, and Cassidy expressly
28 linked these transactions at the time.

1 244. On November 3, 2015, Cassidy forwarded a letter of intent from Yu for the
2 purchase of five Global 6000 aircraft to Fazal-Karim. In that e-mail, Cassidy indicated that
3 one plane would be ordered directly from Bombardier and assigned to Li but ordered under
4 Zetta PTE, four additional planes would be ordered directly from Bombardier, and that
5 Fazal-Karim should add to this five-plane deal Plane 1 from Element. Cassidy also asked
6 Fazal-Karim to get Mattar and Yu on board so that he could lock in Li.

7 245. On November 10, 2015, Cassidy e-mailed Fazal-Karim regarding the letter
8 of intent for direct purchases from Bombardier. Cassidy asked Fazal-Karim both to
9 “confirm the arrangement is all in order on your end for this to be done direct with
10 Bombardier. . . . I will sign this and send the money this week” but also to get bank details
11 for both the Plane 1 transaction and the letter of intent so that Cassidy could receive at least
12 two of the planes by year end.

13 246. On November 10, 2015, Cassidy also sent a draft of the letter of intent for
14 Planes 2-6 to Yu, copying Fazal-Karim, and stated that “Jahid [Fazal-Karim] has spoke to
15 Khader [Mattar] and we are all on the same page.”

16 247. On November 18, 2015, Cassidy executed a letter of intent for the purchase
17 of Planes 2-6 directly from Bombardier. The next day, Cassidy executed a letter of intent
18 for the purchase of Plane 1 from Jetcraft financed by Element.

19 248. On November 24, 2015, Fazal-Karim and Yu (with Mattar copied) both
20 linked Plane 1 with the deal for Planes 2-6. Specifically, Fazal-Karim stated “Have been in
21 constant com with Geoff [Cassidy]. 2m should have been received by BBAD [Bombardier].
22 He wants to sign contract on first airplane ASAP. Did you send him a draft PA? Please send
23 me a copy so that I can help. On the 5000 9679 [Plane 1]. He signed the termsheet with
24 element. We are moving fast. . . .” Yu responded that Bombardier was confirming the
25 receipt of the \$2 million and that Bombardier was “preparing the PA [Purchase Agreements]
26 for all 5 aircrafts (one PA for each aircraft). In principle we would prefer to sign 5 aircraft
27 PA together and we are trying to work on this direction. Will keep you posted with further
28 updates. Also many thanks for your push on G5000 6979. Great team efforts indeed.”

1 249. On December 6, 2015, the day after the Plane 1 APA was executed, Yu sent
2 Cassidy an e-mail copying Mattar and Fazal-Karim outlining the terms of the APAs for
3 Planes 2-6.

4 250. In addition, Bombardier had a direct financial interest in the sale of Plane 1
5 because Bombardier sold Plane 1 to Jetcraft and the pricing was structured such that
6 Bombardier would receive a percentage of any return earned by Jetcraft if and when Jetcraft
7 elected to resell the aircraft.

8 251. Cassidy and Fazal-Karim had previously agreed on the First Kickback
9 before the agreements relating to Planes 1-6 were executed and no later than the National
10 Business Aircraft Association (“NBAA”) conference in November 2015, which took place
11 over the three days before Cassidy entered into the letters of intent for Planes 1-6.²²

12 252. On or about December 23, 2015, Anderson sent Fazal-Karim a spreadsheet
13 entitled “Zetta Jet Lease Overview & Analysis.xlsx” that included a column entitled
14 “Outline of Deal Discussed at NBAA” that included a “3rd Party Fee” of \$500,000 “payable
15 by Jetcraft” as part of the [REDACTED] purchase price. Cassidy signed a letter of intent on
16 behalf of Zetta PTE for Plane 1 at a [REDACTED] purchase price on November 20, 2015.

17 253. On November 23, 2015, Anderson e-mailed Larue copying Fazal-Karim
18 among others to state that the terms of the deal for Plane 1 had changed. Among other
19 changes, the purchase price was increased to [REDACTED] The “Zetta Jet Lease
20 Overview & Analysis.xlsx” spreadsheet dated December 23, 2015, discussed above also
21 included a column entitled “Proposed Revisions to the Deal” which matched the [REDACTED]
22 [REDACTED] price and again included a “3rd Party Fee” of \$500,000 “payable by Jetcraft” as part
23 of the increased purchase price.

24 254. Following the execution of the Plane 1 APA, on January 18, 2016, Element
25 internally circulated a profit-sharing analysis regarding Plane 1. That analysis shows that
26 Jetcraft included “Outside Commissions” of [REDACTED] in the [REDACTED] price of the
27 plane. It further shows that Jetcraft and Element split a profit of at least [REDACTED] of

28 ²² The NBAA held a conference in Las Vegas on or about November 17-19, 2015.

1 which Jetcraft received [REDACTED] in commissions and [REDACTED] in other profits.

2 255. On March 2, 2016, Behrend e-mailed Fazal-Karim and Anderson that
3 Jetcraft “accrued a 3rd party fee of \$500k and I had noted it was for G Cassidy. Will we be
4 paying this, and if so through Jetcraft or FK Group?” Fazal-Karim responded: “The 500K
5 for G can be paid to him directly . . . I’ll ask him to send an invoice . . .” In reality, of course,
6 this was the First Kickback.

7 256. On March 4, 2016, Cassidy (from his Asia Aviation email account) sent
8 Fazal-Karim an invoice dated March 1, 2016, to Jetcraft Global that merely described the
9 reason for payment as “Support Services” and included Cassidy’s private bank account.

10 257. Cassidy provided no legitimate “services” in connection with the sale.
11 Cassidy’s legitimate interest, consistent with his fiduciary obligations to the Debtors, was
12 in representing the Debtors in good faith, and not so that he, Fazal-Karim, Jetcraft, and
13 Bombardier could benefit. Fazal-Karim, Jetcraft Corp., Jetcoast, and Jetcraft Global were
14 aware that Cassidy provided no services related to Plane 1, and that he deserved no
15 remuneration the sale of Plane 1. Indeed, Jetcraft Global had no legitimate role at all in the
16 First Element Transaction.

17 258. On March 28, 2016, Behrend sent a \$500,000 wire from Jetcraft Global’s
18 bank account in the Cayman Islands to Cassidy’s personal bank account.

19 259. The First Kickback was not appropriately disclosed to the Debtors’ other
20 disinterested directors, Seagrim and Walter. If the First Kickback had been disclosed to
21 Seagrim and Walter, they would not have agreed to go through with the transaction.

22 260. The First Kickback was not disclosed in the transaction documents, which
23 Antonenko executed on behalf of Jetcraft Corp. and Jetcoast. Instead, § 12.2.6 of the Plane
24 1 APA stated: [REDACTED]

25 [REDACTED]
26 [REDACTED] Antonenko on behalf of Jetcraft Corp. expressly required that this language be
27 included in the APA.

28 261. Fazal-Karim, Jetcraft Corp., Jetcoast, and Jetcraft Global knew that the First

1 Kickback had no legitimate purpose.

2 262. Earlier in this adversary proceeding, Fazal-Karim submitted a sworn
3 declaration in support of a motion to seal portions of the original Complaint. (*See* Dkt. No.
4 10-1.) Fazal-Karim made several material false statements with knowledge that the
5 statements were false at the time they were made.

6 263. Specifically, Fazal-Karim averred that “Cassidy, as Zetta’s owner, requested
7 [the payments] be made to him and since from my perspective, funds to Cassidy were the
8 same as payments to Zetta, this was not an issue.” (Dkt. No. 10-1, ¶ 4). Fazal-Karim also
9 suggested in a footnote that he did not know that Seagrim and Walter did not have an equity
10 interest in Zetta PTE and did not hold management positions in Zetta. (*See* Dkt. No. 10-1,
11 at n.3.) Each of these statements was material, false, and made with knowledge that the
12 statement was false.

13 264. Fazal-Karim (as well as Mattar and Yu) knew at the time the APA for Plane
14 1 was executed (and at the time of all of the other transactions and closings) that Zetta PTE
15 was not a sole proprietorship and that Cassidy was not the sole owner or director of Zetta
16 PTE.

17 265. On September 15, 2015, Cassidy emailed Yu among others the Information
18 Memorandum, which expressly identified Seagrim and Walter (along with Cassidy) as
19 founders and shareholders of Zetta PTE. On September 16, 2015, Cassidy emailed Fazal-
20 Karim the Information Memorandum. On September 21, 2015, Fazal-Karim forwarded the
21 Information Memorandum to Element and noted that “these guys”—not just Cassidy—had
22 already purchased aircraft and could be in the market for “4 to 5 Globals.”

23 266. On December 4, 2015, the day before the Plane 1 APA was executed,
24 Cassidy emailed Fazal-Karim, Mattar, and Yu a draft APA for Plane 6 and stated in the
25 cover email: “Please note this is subject to board approval of Zetta Jet Pte Ltd.”

26 267. Further, the Plane 1 closing documents included a Certificate of Director of
27 Zetta Pte Ltd. that, in Annex A, was signed by Cassidy, Tang, Seagrim, and Walter, all
28 listed as Directors of Zetta. Further, the closing documents included a Directors’ Resolution

1 in Writing approving the aircraft purchase, signed by Cassidy, Tang, Seagrim, and Walter
2 as Directors. The Plane 1 closing documents also included a copy of Zetta PTE's
3 incorporation documents which lists Seagrim and Walter as Directors of the Company.
4 Thus, Jetcraft Corp. and Jetcoast indisputably knew that Cassidy was not the sole director
5 or owner of Zetta PTE before the Plane 1 APA closed.

6 268. Fazal-Karim also falsely asserted in his declaration that the "payments to
7 Cassidy were never secret or undisclosed" and that "Jetcraft and [Fazal-Karim] specifically
8 disclosed information about the payments, both payee and amounts, directly to Element at
9 the time of closing these transactions." (Dkt. No. 10-1, ¶ 4). This statement was material,
10 false, and made with the knowledge that the statement was false.

11 269. Based on the information produced to the Trustee in response to Bankruptcy
12 Rule 2004 requests, Jetcraft Corp. and Fazal-Karim never disclosed that Cassidy was the
13 payee of the First Kickback to Element. Instead, the lease overview and analysis spreadsheet
14 prepared by Jetcraft and sent to Element stated only that the \$500,000 was a "3rd Party Fee"
15 and the profit-sharing analysis shared between Element and Jetcraft described the \$500,000
16 as an "outside commission." Neither document identified Cassidy as the recipient of the
17 \$500,000.

18 270. Fazal-Karim also falsely asserted in his declaration that "Cassidy negotiated
19 for the payments openly using his Zetta company email account." (Dkt. No. 10-1, ¶ 4). The
20 Trustee has not identified any emails between Cassidy's Zetta company email account and
21 Fazal-Karim or anyone else at Jetcraft regarding the First Kickback. The only email that the
22 Trustee has identified between Cassidy and Jetcraft regarding the First Kickback came from
23 Cassidy's Asia Aviation account, not his Zetta account.

24 **b. The Second Kickback**

25 271. In August 2016, Fazal-Karim agreed to have Jetcraft pay Cassidy a \$500,000
26 bribe (the "Second Kickback") fraudulently disguised to look like it was a part of the
27 purchase price of Plane 10. This kickback, fraudulently concealed and disguised as a
28 payment for undescribed "services," was both a payoff for continuing to work with Fazal-

1 Karim and Bombardier as well as an inducement to acquire Planes 10 and 11 in the Second
2 Element Transaction, to acquire Planes 12-15 in the Challenger Transactions, and to accept
3 delivery of Plane 3 and others rather than cancel the contracts as Cassidy expressly
4 threatened to do. Fazal-Karim later had Cassidy falsify an invoice related to this kickback
5 and even offered to increase the amount of this kickback from \$500,000 to \$750,000 if
6 Cassidy could get the Debtors to pay an additional \$250,000.

7 272. Fazal-Karim agreed to have Jetcraft pay the Second Kickback to Cassidy no
8 later than the execution of the Plane 10 APA because the amount of the Second Kickback
9 is included in the price of Plane 10.

10 273. On November 21, 2016, Cassidy sent an e-mail to Fazal-Karim and asked
11 him to “send the USD\$1m to” Cassidy’s personal bank account. Cassidy also said:
12 “Appreciate if you can send it this week as I need the funds.” Fazal-Karim responded: “Will
13 do. But it is 500k. The other credit has not been allocated yet. So am gonna go ahead and
14 ask Anne [Behrend] to send 500k immediately.”²³ In reality, of course, this was the Second
15 Kickback.

16 274. Later that day, Behrend sent a \$500,000 wire from Jetcraft Global’s bank
17 account in the Cayman Islands to Cassidy’s personal bank account.

18 275. On November 22, 2016, Behrend, Jetcraft Corp.’s CFO, at Fazal-Karim’s
19 request, asked Cassidy to send her an invoice in the amount of \$500,000 made out to Orion,
20 so that she could wire him \$500,000 for “services” on Plane 10.

21 276. Cassidy responded attaching an invoice to Orion that merely described the
22 reason for the payment as “services” and included Cassidy’s private bank account.

23 277. Cassidy provided no legitimate “services” in connection with the sale.
24 Cassidy’s legitimate interest, consistent with his fiduciary obligations to the Debtors, was
25

26 ²³ Upon information and belief, Cassidy was referring to an offer to transfer a \$500,000
27 credit that Zetta PTE had with Bombardier to Jetcraft in exchange for a payment from
28 Jetcraft to Cassidy personally. Matter had previously agreed to transfer the credit to Jetcraft
in an e-mail chain involving Yu, Cassidy, and Fazal-Karim on August 25, 2016, even
though the credit was non-transferable. It is not clear if the credit was transferred.

1 in representing the Debtors in good faith, and not so that he, Fazal-Karim, Jetcraft, and
2 Bombardier could benefit. Fazal-Karim, Jetcraft Corp., Orion, and Jetcraft Global were
3 aware that Cassidy provided no services related to the Plane 10 transaction, and that he
4 deserved no remuneration from the transaction.

5 278. On February 7, 2017, Bergeron at Element e-mailed Anderson and Behrend
6 at Jetcraft seeking information regarding eight aircraft deals involving Element and Jetcraft.

7 279. On February 10, 2017, Fazal-Karim asked Cassidy to send a revised invoice
8 at \$750,000 for “our files.” The price on the aircraft had decreased from the original deal
9 by \$250,000, and so Cassidy had received only \$500,000 as the Second Kickback. Fazal-
10 Karim also offered to give Cassidy the remaining \$250,000 if Cassidy got the Debtors to
11 pay the remaining \$250,000: “[f]or our files better 750k. So that in case you get Zetta to
12 pay us the extra 250k I can resend to you.” In short, Fazal-Karim was offering to “round
13 trip” that money back to Cassidy’s personal account if Cassidy would have the Debtors pay
14 an extra \$250,000 for the already overpriced aircraft.

15 280. Fazal-Karim asked him to send the revised invoice that day because he was
16 being audited: “Thanks dude. If you can today as my contracts are being audited. Ducking
17 banks!!”

18 281. On February 13, 2017, Cassidy sent Behrend a revised invoice to Orion with
19 the same November 22, 2016, date and invoice number, but revised to be for \$750,000.

20 282. On February 16, 2017, Behrend sent Element an e-mail that, among other
21 things, stated: “Invoices supporting the outside commissions paid have been included. FK
22 Group is an entity owned by Jahid, and Jetcraft Asia is one of our subsidiaries. Due to the
23 confidential and sensitive nature of some of our outside commissions, we ran some of the
24 subagency payments through these entities. Please feel free to contact Jahid if you would
25 like to discuss further.”

26 283. On February 22, 2017, internal Element e-mails show that Fazal-Karim told
27 Bergeron that he “has all of the invoices but they are extremely confidential.” Fazal-Karim
28 offered that if Element really wanted to see the invoices, he would meet with Hudson

1 “where he [Fazal-Karim] will show him [Hudson] in person the invoices but we will not be
2 able to have a copy.” Bergeron also indicated that Fazal-Karim “is not even willing to show
3 these invoices to Tony [Bergeron].” Bergeron believed that these payments “occurred
4 because Jetcraft received some leads from Bombardier’s seller and that the outside
5 commissions is related to a commission fee paid to these sellers.”

6 284. The Second Kickback was not appropriately disclosed to the Debtors’ other
7 disinterested directors, Seagrim, Walter, and Li. If the Second Kickback had been disclosed
8 to Seagrim, Walter, or Li, they would not have agreed to go through with the transaction.

9 285. Nor was the Second Kickback disclosed in the transaction documents, which
10 Jetcraft Global and Orion executed.

11 286. Fazal-Karim, Jetcraft Corp., Jetcraft Global, and Orion knew that the Second
12 Kickback had no legitimate purpose.

13 287. In his declaration (Dkt. No. 10-1), Fazal-Karim also made materially false
14 statements about the Second Kickback. Fazal-Karim asserted that the “payments to Cassidy
15 were never secret or undisclosed” and that “Jetcraft and [Fazal-Karim] specifically
16 disclosed information about the payments, both payee and amounts, directly to Element at
17 the time of closing these transactions.” (Dkt. No. 10-1 ¶ 4). This statement was material,
18 false, and made with the knowledge that the statement was false.

19 288. The Second Element Transaction, discussed further below, closed on
20 September 22, 2016. As with the First Kickback, neither the transactional documents nor
21 the analyses identified Cassidy as the recipient of the \$500,000. Instead, the first time
22 Jetcraft or Fazal-Karim disclosed that Cassidy was the payee of the Second Kickback was
23 in February 2017. On February 7, 2017, Bergeron at Element sent Anderson and Behrend
24 at Jetcraft a request for backup regarding certain invoices and commission payments on its
25 deals with Jetcraft. In response, on February 16, Behrend sent Nadeau and Bergeron at
26 Element an email including a link to an FTP containing backup invoices for individual
27 aircraft, including for the first time the falsified invoice Cassidy had prepared at Behrend
28 and Fazal-Karim’s request. The following Monday, February 20, 2017, Nadeau stated in an

1 email to a colleague at Element that the invoice for the \$750,000 kickback was not
2 satisfactory, the invoice “seems to be from or addressed to Geoff Cassidy,” and Nadeau
3 “would like to dig more,” all of which confirms that Fazal-Karim had not in fact disclosed
4 the Second Kickback at the time of the closing almost six months earlier.

5 289. Further, Fazal-Karim averred that Cassidy “made repeated representations
6 to Jetcraft and me that he . . . was using his own funds to pay operating expenses and was
7 going to use the payments for company costs or services.” (Dkt. No. 10-1 ¶ 4.) This
8 statement was material, false, and made with the knowledge that the statement was false.
9 Fazal-Karim’s offer to round-trip the additional \$250,000 to Cassidy if Cassidy could get
10 Zetta to pay the additional amount shows that Fazal-Karim knew that the payment was not
11 going to be used by Zetta for company costs or services.

12 **c. Corrupt Relationship between Fazal-Karim and Mattar**

13 290. Beginning no later than March 18, 2015, Fazal-Karim and Mattar entered
14 into a corrupt relationship that involved illicit, improper, and undisclosed payments between
15 Fazal-Karim and Mattar relating to Zetta aircraft transactions (as well as other unrelated
16 transactions involving third parties).

17 291. Evidence of these improper payments is found in an April 16, 2017, email
18 Fazal-Karim sent to Mattar’s personal Gmail account. This email has no subject and no text,
19 and attaches an excel file entitled “KM.xlsx” (the “Spreadsheet”). A true and correct copy
20 of the email and the Spreadsheet is attached hereto as Exhibit 10.

21 292. The Spreadsheet, on its face, documents and purports to reconcile a flow of
22 payments between Fazal-Karim and Mattar in connection with specified aircraft
23 transactions involving Bombardier, many of which are clearly identifiable as references to
24 the sale of Bombardier aircraft to the Debtors in transactions in which Fazal-Karim was
25 acting as Bombardier’s agent.

26 293. The Spreadsheet presents the documented payments and other recorded
27 information in two charts:

28 a. The top chart has columns with headings entitled “Account,” “Aircraft,”

- 1 “Agreement,” and “Payment Received.” There is a “total” at the bottom of
2 the “Agreement” column which reflects an amount of “[REDACTED]” and
3 a total at the bottom of the “Payment Received” column that reflects an
4 amount that is exactly \$1.5 million short of this total: “[REDACTED]”
- 5 b. The bottom chart is entitled “Payments made as of January 30, 2016.” The
6 bottom of this chart reflects a “total” of “[REDACTED]” of the specified
7 payments made as of January 30, 2016.
- 8 c. In the top chart, several of the rows in the “Account” and “Aircraft” columns
9 refer, respectively, to “Zetta” and to Planes that Bombardier sold to the
10 Debtors in transactions in which Fazal-Karim was acting as Bombardier’s
11 agent.
- 12 d. Also in the top chart, the amounts set forth in the rows reflecting Zetta
13 aircraft transactions under the columns “Agreement” and “Payment”
14 received are, exactly, [REDACTED] of the amount of Fazal-Karim’s known and
15 identified commissions for Planes 2-5 and 12-15 as described in paragraphs
16 148 and 223 above.
- 17 e. Row 15 refers to the “Zetta” account, “x4” aircraft, and an agreement to pay
18 “[REDACTED]” Fazal-Karim was entitled to receive [REDACTED] in
19 commissions on Planes 2-5.
- 20 f. Row 16 refers to the “Zetta” account, “Options,” and an agreement to pay
21 [REDACTED] but it does not show a payment received. Fazal-Karim originally
22 expected to receive [REDACTED] in commissions on Planes 8-9.
- 23 g. Rows 24 and 25 refer to the “Zetta” account, four Challenger 650 aircraft
24 (“Cl650” and “CL650 x 3”), and agreements to pay [REDACTED]
25 (“[REDACTED]” and “[REDACTED]”). Fazal-Karim was to receive [REDACTED] in
26 commissions on Planes 12-15.
- 27 h. In addition, Row 23 refers to the “Zetta” account, and the “L75” aircraft, but
28 states “no deal” and reflects no payment. Cassidy and Fazal-Karim had

1 discussed the purchase of a Learjet 75 from Bombardier in a transaction
2 involving Jetcraft during fall 2016, but the deal ultimately was not
3 consummated.

- 4 i. The bottom “Payments made as of January 30, 2016” chart reflects payments
5 for specific Zetta Planes, identified by manufacturer’s serial number
6 (“MSN”): “9679” and “9788.” Specifically, row 37 dated March 3, 2016, for
7 [REDACTED] refers to Plane 1 (MSN 9679) and Plane 6 (MSN 9688). As alleged
8 above, Fazal-Karim directed Jetcraft Corp. (through Jetcraft Global) to pay
9 Cassidy the First Kickback of \$500,000 in March 2016 related to Plane 1.

10 294. The Spreadsheet shows illicit, improper, and undisclosed payments between
11 Fazal-Karim and Mattar relating to Zetta aircraft transactions. On information or belief, this
12 chart reflects amounts and payments flowing *from* Fazal-Karim *to* Mattar (and potentially
13 others at Bombardier) from the commissions or other funds that Fazal-Karim received on
14 transactions in which he acted as Bombardier’s agent; however, whether the Spreadsheet
15 shows payments from Fazal-Karim to Mattar or *vice versa*, in either event the payments are
16 improper. Under no circumstances do the payments set forth in the Spreadsheet reflect
17 legitimate and proper transactions between Fazal-Karim and Mattar. The amounts in the
18 Spreadsheet do not match the commissions that Fazal-Karim or the other Fazal-Karim
19 Defendants received from Bombardier or any other party in the relevant Zetta transactions.
20 Similarly, the amounts in the Spreadsheet do not match any other legitimate or proper
21 amounts or payments that the Trustee has been able to identify in the transactional
22 documents, the closing statements, or the flows of funds from the relevant Zetta
23 transactions.

24 295. Through his participation in the misconduct described above, and in
25 particular the inclusion of information regarding Planes 1 and 6 in the Spreadsheet along
26 with the fact that Mattar was involved in the negotiation of the combined deals for Planes
27 1-6, Mattar was aware of at least one wrongful and improper payment in connection with
28 Planes 1 and 6 that was not disclosed to the Debtors. Upon information and belief, these

1 payments included the First Kickback, therefore showing that Mattar was aware of the First
2 Kickback that Jetcraft Global paid to Cassidy at Fazal-Karim's instruction.

3 296. Because the Spreadsheet shows illicit and improper payments relating to
4 Planes 1 ("9679"), Planes 2-5 ("4x"), Plane 6 ("9688"), and Planes 12-15 ("CL650" and
5 "CL650 x 3"), the Debtors were damaged in an amount to be proven at trial, including
6 damages resulting from kickbacks paid to Cassidy, the Debtors' fiduciary, to induce him,
7 in breach of fiduciary duties, to purchase hundreds of millions of dollars of aircraft through
8 incurrence of debt that the Debtors could never repay. At a minimum, the Debtors suffered
9 damages but at a minimum equal to the amount of the illicit and improper payments, which
10 necessarily and improperly increased the price of the Planes. In addition to the amount of
11 the illicit and improper payments, the Debtors were further damaged by the difference
12 between the amount that the Debtors paid for the Planes and the amounts the Planes were
13 actually worth.

14 297. In addition, the Trustee notes that his investigation of this corrupt
15 relationship between Mattar and Fazal-Karim has revealed that relevant facts supporting
16 these allegations, once contained in certain highly probative documents, may not have been
17 preserved, or may have been intentionally destroyed.

18 298. During the Bankruptcy Rule 2004 process and during this Adversary
19 Proceeding, the Trustee requested e-mail correspondence from Mattar's personal e-mail
20 account. Upon information and belief, Mattar refused to provide consent to Bombardier to
21 search his personal devices and personal e-mail accounts.

22 299. Mattar used his personal devices and a personal Gmail account to conduct
23 business on behalf of Bombardier. Bombardier was well aware that Mattar used his personal
24 devices and a personal Gmail account to conduct business on behalf of Bombardier. The
25 Debtors' files and the productions of Bombardier and others include numerous emails from
26 Mattar's personal Gmail account and other indications that Mattar was using his personal
27 devices to conduct business on behalf of Bombardier.

28 300. Bombardier did not collect or search for documents from Mattar's personal

1 devices or personal Gmail account. Instead, Mattar forwarded some documents from his
2 personal Gmail account to Bombardier for production in response to the Trustee's
3 Bankruptcy Rule 2004 requests. Bombardier allowed Mattar to self-select these documents
4 in a manner that was not forensically sound.

5 301. Upon information and belief, at the time the original complaint was filed on
6 September 13, 2019, Mattar was the Vice President of Sales for the Middle East, Africa,
7 Asia Pacific and China for Bombardier Business Aircraft. Based on publicly available
8 information, as of September 2019, at or around the Trustee filed the original complaint that
9 included allegations detailing Mattar's central role in many of the claims asserted against
10 Bombardier, Mattar's employment with Bombardier ended.²⁴

11 302. Bombardier did not produce the Spreadsheet in response to the Debtors'
12 Bankruptcy Rule 2004 requests.²⁵

13 303. Upon information and belief, Mattar has withheld or destroyed relevant
14 documents regarding his business on behalf of Bombardier, including with respect to the
15 kickbacks and bribes Jetcraft and Bombardier paid to Cassidy and the payments between
16 Mattar and Fazal-Karim.

17 304. Based on the above, and the general nature of the information relating to
18 these illicit and improper agreements and payments, additional facts supporting these
19 allegations are not accessible to the Trustee and are peculiarly within Fazal-Karim's,
20 Mattar's, and Bombardier's knowledge.

21 **d. The F1 Ticket Bribe and the Sea-Doos**

22 305. Bombardier paid Cassidy one bribe and agreed to pay another (that was
23 ultimately paid by Fazal-Karim through FK Partners) as a quid pro quo in direct response
24 to Cassidy's threat to cancel contracts worth more than [REDACTED] to Bombardier (which
25 would also have forced Bombardier to have to refund more than [REDACTED] in prepayments),

26 _____
27 ²⁴ Bombardier did not disclose that Mattar no longer worked at Bombardier as of the end of
September 2019 during communications with the Trustee's counsel regarding these issues.

28 ²⁵ These allegations raise significant possible spoliation concerns, which the Trustee intends
to continue to address with all counsel and, accordingly, reserves all rights.

1 as well as to ensure that Cassidy would enter into four additional contracts that Bombardier
2 valued at \$129.4 million. These bribes, which took the form of Sea-Doo jet skis and tickets
3 to a Formula 1 (“F1”) event, exceeded \$86,300

4 306. On July 14, 2016, Cassidy e-mailed Mattar that he needed two Sea-Doo jet
5 skis, worth approximately \$42,569, delivered to Gold Coast, Australia. Maritimo, the entity
6 from which Cassidy purchased the Dragon Pearl yacht with stolen debtor funds, is located
7 in Gold Coast, Australia.

8 307. On July 20, 2016, Cassidy e-mailed Mattar copying Fazal-Karim, Yu, and
9 others that he “put you [Bombardier] on formal notice of my intention to Cancel all orders
10 and not take deliver of [Plane 3].”

11 308. On July 21, 2016, Cassidy e-mailed Mattar copying Fazal-Karim, Yu, and
12 others asking Fazal-Karim how quickly he could sell the planes and stated, “My plan is to
13 issue termination notice I’m actually feed up with calling you guys and complaining.”

14 309. On July 22, 2016, Cassidy then linked the Sea-Doos to his earlier threat to
15 cancel the contracts, e-mailing Mattar and Fazal-Karim, “Im not going to continue talking
16 on all this rubbish, the ball is in your court. On a side note let me know on the Seadoo,
17 otherwise I need to order one shortly.”

18 310. On July 28, 2016, Cassidy requested that Bombardier provide him with five
19 tickets to the Singapore F1 event on September 16-18, 2016, worth \$43,890 total. On July
20 29, 2016, a Bombardier employee, apparently not understanding that Cassidy was in the
21 midst of demanding payoffs, e-mailed Cassidy that another company could sell him tickets.
22 Less than 20 minutes later, Cassidy e-mailed Mattar copying Fazal-Karim, Yu, and others
23 stating: “As per my earlier e-mail. Proceed to Cancel the 4 x Globals.” Cassidy had also
24 threatened earlier that day to terminate negotiations with Minsheng relating to the purchase
25 of Planes 12-15.

26 311. Cassidy thus had demanded a quid pro quo: give the Sea-Doos and F1 tickets
27 or Cassidy would refuse to take delivery of Plane 3 and cancel the purchase agreements for
28 Planes 4, 5, 8, and 9. Upon cancellation, Bombardier’s only recourse was to recover

1 “liquidated damages” [REDACTED]

2 [REDACTED] Bombardier required that debtor Zetta PTE agree that the liquidated
3 damages [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 312. At the time Cassidy demanded the “quid pro quo”, the Debtors were awaiting
10 delivery of Plane 3 and had four pending purchase agreements with Bombardier. Had
11 Cassidy cancelled the agreements and left Bombardier with its contractual remedy to collect
12 liquidated damages, the Debtors would have avoided [REDACTED] in insurmountable
13 aircraft financing obligations for overpriced aircraft and, in fact, been entitled to a net refund
14 of [REDACTED] in excess prepayments. Thus, Cassidy’s threat to take his business elsewhere
15 unless he was given commercial bribes, such as Sea-Doos and F1 tickets, was a real threat
16 that Bombardier could not ignore.

17 313. The next day, on July 30, 2016, Mattar acquiesced, and with intent to
18 influence Cassidy not to cancel the contracts, directed that the tickets were for the Zetta
19 team and that the Debtors would not have to pay.

20 314. Bombardier did not provide the F1 tickets as reasonable and legitimate client
21 entertainment, but rather as a commercial bribe in direct response to Cassidy’s demand for
22 a quid pro quo.

23 315. On August 24, 2016, Cassidy e-mailed Fazal-Karim regarding the two Sea-
24 Doos, and asked if Fazal-Karim could “ensure [Mattar] takes care of this. Maybe best
25 [Mattar] give his credit card details and let Philippe [Crevier] deal with it.”

26 316. On September 7, 2016, Fazal-Karim e-mailed Mattar and Phillippe Crevier
27 (“Crevier”), a consultant paid by Zetta PTE, that Crevier should order the two Sea-Doos
28

1 and send Fazal-Karim the invoice. Fazal-Karim indicated that he would “sort it out with
2 Bombardier.”

3 317. On September 8, 2016, Cassidy told Crevier that Jetcraft would pay
4 Bombardier directly for the two Sea-Doos or “Mick will pay for Jahid.” Upon information
5 and belief, Mick is Mick Doohan, an authorized representative for Jetcraft.

6 318. On September 14, 2016, Mattar, acting on behalf of Bombardier, agreed to
7 pay for the bribe and authorized Fazal-Karim as Bombardier’s agent to do so. Specifically,
8 Mattar wrote to Cassidy and Crevier: “Having spoken to Jahid, we can do the following,
9 buy and bill back to Jetcraft, and I shall sort it out with [J]ahid.” Mattar thus, on behalf of
10 Bombardier, directed Cassidy to purchase the Sea-Doos and authorized Fazal-Karim, acting
11 as Bombardier’s agent, to accept and pay an invoice from Cassidy for the amount of the
12 Sea-Doos. Mattar stated that he and Fazal-Karim would “sort it out,” meaning that Fazal-
13 Karim and Mattar would determine how to divide the cost between Jetcraft and Bombardier.
14 By structuring the transaction in this way, Bombardier, Mattar, and Jetcraft would not have
15 to pay Cassidy a bribe directly. Instead, the transaction would appear to be a legitimate
16 purchase by the Debtors (even though it was not, because the Sea-Doos were for Cassidy’s
17 personal use), while Mattar would be able to reimburse Fazal-Karim in a separate
18 transaction. The only purpose of these machinations was to disguise the payment through
19 the cloak of legitimate business between the Debtors, Bombardier, and Jetcraft, even though
20 the Debtors were the only ones who did not receive a benefit.

21 319. On September 19, 2016, Benjamin Ng (Zetta PTE, Accounts) sent Cassidy
22 an invoice addressed to Jetcraft Corp., Attn: Fazal-Karim, for the two Sea-Doos. Crevier
23 then sent Fazal-Karim the invoice. The cost of the Sea-Doos according to the invoice was
24 \$42,569.

25 320. On September 21, 2016, Zetta PTE purchased the Sea-Doos. On October 2,
26 2016, Crevier sent Mattar and Fazal-Karim an e-mail thanking them for the Sea-Doos. Plane
27 3 was delivered on September 22, 2016.

1 321. If Cassidy had cancelled the contracts, Bombardier would have lost more
2 than [REDACTED] in additional revenue and been forced to return more than [REDACTED] in
3 prepayments. Further, Cassidy executed four additional APAs for Planes 12-15 on
4 September 22, 2016, less than 10 days after Mattar authorized the bribe, that were worth
5 \$129.4 million to Bombardier. Fazal-Karim acted as Bombardier's agent and received a
6 commission on each of these Planes.

7 **e. Bombardier's bribes violated its own policies**

8 322. Bombardier's payment of the F1 tickets and agreement to pay for the Sea-
9 Doos violated its own policies. To be sure, the payment of the F1 tickets and the agreement
10 to pay for the Sea-Doos were commercial bribes whether or not they violated Bombardier's
11 policies or even if Bombardier had no policies at all. Nevertheless, the fact that the payment
12 and agreement violated Bombardier's policies further demonstrates that Yu and Mattar (as
13 well as Fazal-Karim, who agreed to be bound by the policies under his preferred
14 representative agreement with BI) knew that their actions were improper.

15 323. Bombardier has a Code of Ethics that seeks to set "the global standards for
16 our business and activities, applies to all members of the Bombardier community, including
17 the Board of Directors, management and employees at every level, in every country and
18 from every Bombardier legal entity (including joint ventures where Bombardier has a
19 majority/ controlling interest)."²⁶

20 324. At the time of the events below, Bombardier's Code of Ethics broadly
21 prohibited giving any gifts that even *might* be improper with respect to the recipient:
22 "Employees, suppliers, partners and other third parties representing Bombardier must avoid
23 giving or receiving gifts or entertainment if these might improperly influence the recipient's
24 judgment or might be perceived to do so. Gifts can include goods, services, favours, loans,
25 trips, accommodation or use of property, etc."²⁷

26 ²⁶ <https://www.bombardier.com/en/governance/code-of-ethics.html>, a true and correct copy
of which is attached hereto as Exhibit 11.

27 ²⁷ [https://web.archive.org/web/20160424114843/https://www.bombardier.com/content/
28 dam/Websites/bombardiercom/supporting-documents/BInc/Bombardier-code-of-ethics-](https://web.archive.org/web/20160424114843/https://www.bombardier.com/content/dam/Websites/bombardiercom/supporting-documents/BInc/Bombardier-code-of-ethics-)

1 325. Bombardier's Code of Ethics permitted token or nominal gifts in certain
2 limited situations: "Sometimes in business, for example, in certain cultures, an exchange of
3 gifts is appropriate. In such instances, the gifts should be reasonable, in good taste, and have
4 token or nominal value."²⁸ The bribes and kickbacks at issue were none of those things.

5 **f. The Nyota Bribe and Breaches of Fiduciary Duty**

6 326. Cassidy and Fazal-Karim also had a separate, undisclosed side venture in
7 which Cassidy agreed to purchase half of a superyacht with Fazal-Karim. This side venture
8 created an undisclosed conflict of interest, Fazal-Karim aided and abetted Cassidy's
9 breaches of fiduciary duty because Cassidy was misusing Zetta resources for the superyacht,
10 and it gave Fazal-Karim a convenient vehicle to pay Cassidy additional bribes.

11 327. In early 2017, Cassidy and Fazal-Karim planned to begin this new business
12 venture through which they would purchase a yacht and operate charters. Ultimately, they
13 set their sights on the 121-foot superyacht, originally called the Tosca, which Fazal-Karim's
14 wife named the Nyota.

15 328. Fazal-Karim purchased the Nyota. Cassidy and Fazal-Karim agreed that
16 Fazal-Karim would pay for the Nyota and Cassidy would transfer his 50% share later. Upon
17 information and belief, Cassidy never paid for his share of the Nyota.

18 329. Fazal-Karim used his various companies and assets interchangeably during
19 the transaction.

20 330. On February 7, 2017, an employee of the yacht company sent Cassidy and
21 Fazal-Karim an e-mail attaching an invoice to FK Partners for 10% of the purchase price
22 on the Tosca, after Fazal-Karim asked him to direct the invoice to FK Partners rather than
23 FK Group.

24 331. Cassidy and Fazal-Karim used Philippe Crevier, a consultant paid by Zetta
25 PTE using a Zetta PTE e-mail address and signature block, to work with a service company
26 to help register a new Maltese company to manage the yacht.

27

[currentversion-en.pdf](#), at 14, a true and correct copy of which is attached hereto as Exhibit

28 12.
²⁸ *Id.*

1 332. On February 13 and 14, 2017, Crevier, from his Zetta email address, emailed
2 with a G-Yachts employee copying Fazal-Karim among others and confirmed that Cassidy
3 would be listed as a director and shareholder of the entity that would own the Nyota “under
4 his personal name.” Neither suggested that Cassidy was entering into the transaction on
5 behalf of the Debtors.

6 333. On February 22, 2017, Cassidy emailed a G-Yachts employee, copying
7 Fazal-Karim, and indicated that the Nyota would be listed on the Debtors’ insurance policy
8 for the “plane fleet,” as Cassidy had done with the Dragon Pearl.

9 334. On June 1, 2017, Nicholas Houseman (“Houseman”) of GSM Capital e-
10 mailed Cassidy an invoice on behalf of FK Partners to “Geoff Cassidy” for 50% of the price
11 of the Nyota. Houseman directed Cassidy to send the funds to an FK Partners account. The
12 same day, Fazal-Karim asked Cassidy to send the money to his “Swiss account” rather than
13 “Singapore.” Cassidy agreed to send the money in Euros to Switzerland as requested.

14 335. On June 2, 2017, Cassidy asked Fazal-Karim about Jetcraft paying for the
15 two Sea-Doos described above. Fazal-Karim replied “Jetski has nothing to do with Jetcraft.
16 You can offset jet ski on the boat. It is personal. The invoices to Jetcraft need to be settled
17 for accounting purposes.” The “boat” referenced by Fazal-Karim was the Nyota. In June
18 2017, Cassidy personally owed his new venture with Fazal-Karim €1,500,000 for the
19 purchase of the Nyota. Upon information and belief, Fazal-Karim knew that \$42,569
20 payment for the Sea-Doos for Cassidy would cause issues for Jetcraft’s accounting so he
21 requested that Cassidy deduct the amount Fazal-Karim and Jetcraft owed him for the two
22 Sea-Doos from the amount that Cassidy owed on the Nyota.

23 336. Although Cassidy used a consultant paid by Zetta PTE to help manage the
24 Nyota and had Zetta PTE pay for the insurance, Cassidy and Fazal-Karim agreed that
25 Cassidy would be the director and a shareholder under his personal name and Fazal-Karim
26 would be the other shareholder, through one of his companies.

27 337. Although Fazal-Karim was aware that Cassidy was using Zetta PTE
28 consultants and that Cassidy would list the Nyota on the Debtors’ insurance policy, Fazal-

1 Karim referred to the Nyota as “personal,” further demonstrating that Fazal-Karim knew
2 Cassidy’s use of Zetta PTE consultants and the Debtors’ insurance was improper.

3 338. Although Cassidy’s fraud was soon to be discovered, the Nyota would have
4 been a perfect vehicle for Fazal-Karim to funnel future bribes or kickbacks in the form of
5 credits against Cassidy’s unsatisfied obligation for his 50% ownership interest in the Nyota.

6 339. On information and belief, the Nyota was sold in August 2020 for a price in
7 the range of 3.5 million euro.

8 340. Even after he was removed from the Debtors’ Boards of Directors, Cassidy
9 misrepresented his involvement with the Nyota in a statement attempting to justify his
10 actions and falsely claimed that he had only been on the yacht as a guest.

11 **H. Each of the Planes was significantly overpriced**

12 341. As a threshold matter, the Debtors were damaged by the amount of the
13 bribes, kickbacks, and illicit payments between Cassidy and Fazal-Karim, as well as
14 between Fazal-Karim and Mattar. The payment of these bribes, kickbacks, and illicit
15 payments was an improper and fraudulent overpayment that these Defendants caused the
16 Debtors to pay.

17 342. But the Debtors were also damaged in an even more substantial manner,
18 because the Planes were significantly overpriced. Bombardier and Jetcraft not only sold
19 planes to Zetta that they would not have otherwise sold to Zetta, earning ill-gotten
20 commissions and profits for themselves in the process, but they also sold those planes at
21 fraudulently overinflated prices, netting Jetcraft and Bombardier millions of more dollars
22 of illicit gains at Zetta’s expense and allowing Bombardier to report better sales numbers to
23 Bombardier’s investors.

24 343. Based on expert analysis of publicly available valuations of similar planes
25 from three sources as well as specific transactions involving substantially similar planes
26 during the relevant time frame (“Fair Market Value”), the purchase prices that the Debtors
27 agreed to pay were significantly above Fair Market Value.

344. Based on the expert analysis described above, each and every one of the delivered planes was priced significantly above Fair Market Value:

	Purchase Price	Fair Market Value	Difference
Plane 1		\$35,700,000	
Plane 2		\$37,400,000	
Plane 3		\$37,400,000	
Plane 4		\$35,700,000	
Plane 6	\$50,000,000	\$39,000,000	\$11,000,000
Plane 7	\$50,000,000	\$37,600,000	\$12,400,000
Plane 10		\$37,400,000	
Plane 11		\$30,400,000	
Plane 12		\$21,375,000	

345. These valuations are supported by further expert analysis from the perspective of the value provided to the Debtors' estates ("Estate Value"). Based on an analysis of the theoretical purchase price that the Debtors could have paid for the Global 5000s and 6000s (i.e., Planes 1-4, 6-7, and 10-11) to generate a conservative 10% internal rate of return, considering the revenue that an operator of similar size as the Debtors would likely generate, each and every one of the delivered planes was significantly overpriced:

	Purchase Price	Estate Value	Difference
Plane 1		\$29,300,000 - \$31,600,000	
Plane 2		\$29,600,000 - \$33,900,000	
Plane 3		\$28,500,000 - \$32,900,000	

Plane 4		\$29,200,000 - \$33,700,000	
Plane 6	\$50,000,000	\$22,700,000 - \$28,700,000	\$21,300,000 - \$27,300,000
Plane 7	\$50,000,000	\$22,700,000 - \$28,700,000	\$21,300,000 - \$27,300,000
Plane 10		\$26,500,000 - \$31,000,000	
Plane 11		\$26,400,000 - \$29,200,000	

346. Purchasers in the luxury business jet market, and in particular charter operators, engage in competitive bidding processes before they make significant decisions on fleet purchases. The market for private luxury jets is highly competitive and was even more acutely so in 2015-2016 given the severely depressed state of the private luxury jet market. Given the market dynamics and depressed state of the private luxury jet market, Cassidy's failure to engage in a competitive bidding process with other private luxury jet manufacturers in exchange for bribes and kickbacks was a clear breach of his fiduciary duties and directly resulted in the Debtors' inability to achieve price reductions that would have been in line with the fair market valuations listed above.

347. Moreover, charter operators heavily negotiate prices with manufacturers and do so over a period of several months before they make significant capital commitments. Here, Cassidy made no effort to negotiate these prices with Jetcraft or Bombardier but paid full retail in a buyer's market.

348. Although manufacturers and brokers in the luxury business jet market often discount prices for multiple purchases at one time, and the Debtors entered into letters of intent for as many as 11 planes as part of the initial negotiations in October and November 2015, Cassidy made no effort to seek such quantity discounts from Jetcraft or Bombardier.

1 349. In addition to the above expert analysis, the valuations are supported by the
2 fact that Planes 1 and 10 were purchased by Fazal-Karim, Jetcraft Corp., Jetcraft Global,
3 Jetcoast, and Orion at significantly lower prices and then resold to the Debtors. These
4 defendants entered into these back-to-back transactions *after* Cassidy told Fazal-Karim on
5 September 16, 2015, that the Debtors were in the market for multiple Global 6000s.

6 350. Jetcoast entered into an APA to purchase Plane 1 from Bombardier on
7 September 25, 2016, for an effective purchase price of [REDACTED] Internal Element
8 valuations show that as of October 1, 2015, Plane 1 had an estimated market price of
9 between \$37.25 and \$37.64 million.

10 351. On October 16, 2015, Fazal-Karim e-mailed Bergeron at Element regarding
11 the terms of a potential sale of Plane 1 to Zetta PTE and stated, “[our] net price will be . . .
12 [REDACTED].”

13 352. On November 18, 2015, Larue sent a financing proposal to Fazal-Karim for
14 Zetta PTE’s purchase of Plane 1 for [REDACTED]. Later that same day, Fazal-Karim
15 responded to Element’s financing proposal by asking Element to raise the purchase price to
16 [REDACTED] and stated that he would brief them later, despite Fazal-Karim’s prior indication
17 that the price would be [REDACTED] ([REDACTED] plus a [REDACTED] refundable deposit).

18 353. On November 20, 2015, Cassidy executed a renewed financing proposal at
19 a [REDACTED] purchase price. This price already included upgrades to the plane.

20 354. On November 23, 2015, despite the fact that Cassidy had already executed
21 a financing proposal with a purchase price of [REDACTED], Fazal-Karim, Antonenko, and
22 Bergeron exchanged e-mail correspondence and raised the price again, now to [REDACTED]
23 [REDACTED]. On November 24, 2015, Element sent another financing proposal to Cassidy, who
24 executed and returned the proposal at this new and higher price.

25 355. In December 2015, Element submitted a “Transaction Summary and
26 Approval” to its credit committee, which outlined the terms of the First Element
27 Transaction. Although the aircraft was purchased for [REDACTED] from Bombardier, the base
28

1 purchase price was listed as [REDACTED], plus \$1.855 million in upgrades, and a [REDACTED]
2 security deposit, for a total purchase price of [REDACTED]

3 356. Thus, in less than 60 days, the price of Plane 1 increased from [REDACTED]
4 to [REDACTED] (excluding upgrades and deposit). Moreover, the price of Plane 1 increased
5 by [REDACTED] *in four days* from the time that Cassidy signed the first financing agreement
6 to the time he executed the final financing proposal.

7 357. Jetcraft Corp. and Jetcoast entered into various agreements to sell Plane 1 to
8 the Debtors on December 5, 2015, for [REDACTED]. The sales price included the
9 \$500,000 First Kickback and thus the price of the plane was overstated by at least that much.
10 In addition, according to a commission calculation spreadsheet that Jetcraft sent to Element
11 on January 18, 2016, Jetcraft Corp. and Element split gross profits of [REDACTED] and
12 Jetcraft Corp. also received a sales commission of [REDACTED]. Upon information and belief,
13 the price also included significantly overstated costs for maintenance (i.e. upgrades) of more
14 than \$1.1 million, amounts which Jetcraft Corp. described as “high estimates” that “should
15 come in less” but which were not adjusted to reflect the actual costs.

16 358. Orion entered into an APA to purchase Plane 10 from a third party on
17 December 30, 2015, for [REDACTED]

18 359. Orion and Jetcraft Global entered into various agreements to sell Plane 10 to
19 the Debtors on September 22, 2016, for [REDACTED]. The sales price included the \$500,000
20 Second Kickback and thus the price of the plane was overstated by at least that much. In
21 addition, according to a commission calculation spreadsheet that Jetcraft sent to Element on
22 February 3, 2017, Jetcraft Corp. and Element split gross profits of [REDACTED] and
23 Jetcraft Corp. also received a sales commission of [REDACTED]. Upon information and
24 belief, the price also included significantly overstated costs for maintenance (i.e. upgrades)
25 of more than \$1.2 million and travel of more than \$100,000.

26 360. On June 22, 2016, less than six months after selling Zetta at least nine Global
27 6000s at prices ranging from [REDACTED] (and before any of those planes
28 had been delivered), Fazal-Karim emailed Bergeron that Bombardier had agreed to sell him

1 a new 6000 for [REDACTED]. Three months later, Fazal-Karim through Jetcraft Global and
2 Orion sold Zetta Plane 10 in a deal financed by Element for [REDACTED]

3 **I. The scheme falls apart and the Debtors file for bankruptcy**

4 361. In mid-2017, during preparations for Zetta PTE's first, statute-mandated
5 audit, Zetta PTE's CFO (who later quit during the audit) started asking questions about the
6 \$2.66 million that Cassidy embezzled following the Minsheng Refinancing. Cassidy ham-
7 handedly falsified two invoices but the jig was up.

8 362. On August 12, 2017, Walter sent the Zetta PTE Board of Directors and the
9 Debtors' new CFO a blistering e-mail stating that everyone recognized that "Zetta has been
10 operating without proper financial controls," noted that the CFO quitting mid-audit was a
11 "BIG RED FLAG," and explicitly accused Cassidy of "managing a Ponzi scheme" (all
12 emphasis original). In a follow up e-mail the same day, Walter also noted that Cassidy's
13 presentation to the French investment bank overstated the value of the Debtors' aircraft by
14 \$150 million dollars which Walter twice described as another "**MASSIVE RED FLAG**"
15 (emphasis original). Walter ultimately demanded that Cassidy "prove to us that Zetta is not
16 a Ponzi scheme."

17 363. On August 17, 2017, the Zetta PTE Board of Directors had a meeting in
18 Hong Kong. Seagrim, Walter, and Li voted to suspend Cassidy and Tang. On August 22,
19 2017, Cassidy and Tang were removed from the board and their roles at the Debtors.

20 364. On September 8, 2017, the Debtors filed a federal civil lawsuit against
21 Cassidy in the United States District Court for the Central District of California, Case No.
22 2:17-cv-06648-JAK-GJS.

23 365. On September 15, 2017 (the "Petition Date"), the Debtors commenced these
24 bankruptcy proceedings by filing voluntary petitions for relief under chapter 11 of the
25 Bankruptcy Code (the "Chapter 11 Cases").

26 366. On November 30, 2017, based upon a lack of funds to operate the Debtors'
27 business, the Trustee shut down operations, terminated all employees, and, on December 4,
28

2017, this Court entered the orders granting the Trustee's motions to convert the Debtors' Chapter 11 Cases to cases under Chapter 7 of the Bankruptcy Code.

367. On December 5, 2017, the US Trustee appointed the Trustee to serve as the Chapter 7 Interim Trustee in these Chapter 7 Cases. The Trustee became the permanent chapter 7 trustee in these Chapter 7 Cases after the conclusion of the section 341 meeting of creditors.

ALLEGATIONS RELATING TO ALTER EGO

A. Fazal-Karim treated the other FK Defendants as alter egos of himself and one another.

368. Fazal-Karim used his various companies, including the Jetcraft entities, FK Group, and FK Partners, interchangeably and as alter egos of himself and one another.

369. During the relevant period, Fazal-Karim treated the other Fazal-Karim Defendants, including Jetcraft Corp., Jetcraft Global, Jetcoast, Orion, Jetcraft Asia, FK Group, and FK Partners, as a single entity such that the individuality and separateness between them ceased.

370. The Fazal-Karim Defendants commingled funds and assets and failed to segregate the assets of the separate entities. Behrend, Jetcraft's CFO, testified in her Bankruptcy Rule 2004 deposition that she "move[s] cash around as needed between our [Jetcraft] entities" and "based on where we have our cash balances, we used one of our bank accounts from an entity to pay on behalf of another." For example, after Behrend asked Fazal-Karim whether to pay the First Kickback through Jetcraft or FK Group, Behrend ultimately paid the First Kickback out of a Jetcraft Global account in the Cayman Islands. Similarly, after Behrend directed Cassidy to falsify an invoice for the Second Kickback to Orion, she then paid the Second Kickback out of a Jetcraft Global account in the Cayman Islands.

371. Further, several of the relevant entities had no bank accounts at all. Jetcoast and Orion did not have their own bank accounts and Jetcraft Corp. and Jetcraft Global would make and receive payments on their behalf. Funds that should have been in separate bank

1 accounts for Jetcoast and Orion were commingled with Jetcraft Corp. and Jetcraft Global
2 funds by having those payments made to accounts belonging to Jetcraft Corp. and Jetcraft
3 Global. Because Jetcraft Corp. and Jetcraft Global did not set up separate bank accounts,
4 they failed to segregate their assets from those of Jetcoast and Orion. For example, the
5 Debtors made \$5.555 million in transfers between December 10, 2015, and January 5, 2016,
6 to Jetcraft Corp.'s Bank of America account in North Carolina in connection with Plane 1,
7 as set forth on Schedule 3, even though Jetcoast was the proper payee on the Plane 1 APA.
8 The loan proceeds on Planes 1 and 10, which should have been paid to Jetcoast and Orion
9 under the Plane 1 and Plane 10 APAs, respectively, likewise were not put into separate,
10 segregated accounts.

11 372. The Fazal-Karim Defendants also failed to maintain proper books and
12 records. For example, Behrend directed Cassidy to falsify invoices for the First and Second
13 Kickbacks. In addition, when Behrend calculated the internal commissions due from
14 Jetcraft Corp. to FK Group on a plane unrelated to the Debtors, she indicated in an email to
15 Fazal-Karim on July 18, 2016, that she would post those commissions to Plane 10: "I just
16 discovered that I did not accrue [REDACTED] as a 3rd party fee for the TB matter on Global [REDACTED]
17 [REDACTED]. We had discussed this back in march. If I post this to the deal now, I'll have to
18 recalculate the Element split, internal commissions, etc. I could go ahead and pay the [REDACTED]
19 to FK Group now, but would you be ok if I posted [REDACTED] each to 9697 and [REDACTED] instead of
20 the [REDACTED] to [REDACTED]?"

21 373. In addition, in his declaration, Fazal-Karim asserted that he has "a
22 contractual arrangement through my separate business, FK Partners, to be compensated for
23 my work or role in completed aircraft transactions." Jetcraft's internal financial statements
24 show that FK Group, rather than FK Partners, received payments from Jetcraft Global
25 relating to specific transactions.

26 374. Fazal-Karim treated the assets of the Fazal-Karim Defendants as his own.
27 For example, according to the testimony of Jetcraft Corp.'s CFO, Behrend, she prepared a
28 personal financial statement for Fazal-Karim because Fazal-Karim was personally

1 guaranteeing the lines of credit and loans for Jetcraft Corp. and Jetcraft Global. Although
2 Fazal-Karim purchased the Nyota using funds transferred from FK Partners, and held the
3 Nyota in the name of a Panamanian entity, Fazal-Karim directed Behrend to include the
4 Nyota as Fazal-Karim's personal asset on his personal financial statement. Although Fazal-
5 Karim described the Nyota as "personal," he used assets of another Fazal-Karim Defendant
6 to pay for it.

7 375. Fazal-Karim had at all relevant times a direct or indirect controlling
8 ownership interest and dominated all of the Fazal-Karim Defendants. Fazal-Karim owns 95
9 percent of Jetcraft Corp. and Jetcraft Global, Anderson and Antonenko each owns 2 percent
10 of each entity, while Behrend owns the remaining 1 percent of each entity. Jetcraft Asia,
11 Jetcoast, and Orion are each direct or indirect wholly owned subsidiaries of Jetcraft Global.
12 Based on available public information, Fazal-Karim is also the sole direct or indirect owner
13 of FK Group and FK Partners. Fazal-Karim is the Chairman of the Board of Jetcraft Corp.
14 and FK Group. Fazal-Karim is the sole director and person with significant control of FK
15 Partners.

16 376. Fazal-Karim controlled the business of the Fazal-Karim Defendants.
17 Although the Fazal-Karim Defendants purport to have separate existence, Fazal-Karim is
18 the nerve center for all of the Fazal-Karim Defendants.

19 377. Fazal-Karim used the Fazal-Karim Defendants as mere conduits of one
20 another by having one entity pay obligations on behalf of another entity. For example, the
21 Debtors made \$5.555 million in transfers between December 10, 2015, and January 5, 2016,
22 to Jetcraft Corp.'s Bank of America account in North Carolina in connection with Plane 1,
23 as set forth on Schedule 3, even though Jetcoast was the proper payee on the Plane 1 APA.
24 Although the invoices relating to the Second Kickback were sent to Orion, Fazal-Karim
25 directed Jetcraft Corp.'s CFO to pay the Second Kickback to Cassidy from a Jetcraft Global
26 bank account. Fazal-Karim also directed Jetcraft Corp.'s CFO to pay the First Kickback
27 from a Jetcraft Global account even though Jetcraft Global was not involved in the First
28 Element Transaction in any way. Further, Behrend told Element that Fazal Karim used

1 Jetcraft Asia and FK Group to pay “extremely confidential” “outside commissions” as part
2 of transactions involving Jetcraft Corp. None of these entities had any legal obligation or
3 other appropriate reason to make these payments.

4 378. Fazal-Karim controlled all of his business for the various Fazal-Karim
5 Defendants from his FK Group e-mail address. Each e-mail that Fazal-Karim sent that is
6 referenced in this Complaint came from Fazal-Karim’s FK Group e-mail address. Because
7 Fazal-Karim conducted all of his business using the same e-mail address, it was not clear to
8 third parties which of the Fazal-Karim Defendants he was conducting business on behalf
9 of, or whether he was acting for his own personal business.

10 379. Fazal-Karim routinely used the employees of one of the Fazal-Karim
11 Defendants for the business of another. For example:

- 12 a. Behrend is the Chief Financial Officer of both Jetcraft Corp. and Jetcraft
13 Global.
- 14 b. Joanna Kwong holds herself out as a Sales Director of FK Group; a Vice
15 President, Business Development of Jetcraft Asia; and a Director of Business
16 Development of Jetcraft. Fazal-Karim directed Kwong to conduct business
17 on his behalf with no distinction as to which entity or role she was in.
- 18 c. Shariff Narayanin holds himself out as a Regional Sales Director of “Jetcraft
19 / FK Group.”
- 20 d. Peter Antonenko, the Chief Operating Officer of Jetcraft Corp., was referred
21 to by Fazal-Karim as his personal lawyer in correspondence regarding a
22 post-petition lawsuit.

23 380. Fazal-Karim treated the Fazal-Karim Defendants as a single combined
24 business. For example, although Fazal-Karim signed the Bombardier representative
25 agreements in his personal capacity, Fazal-Karim holds out FK Group as Bombardier’s
26 exclusive representative in Asia.

27 381. Upon information and belief, there may be additional entities that are alter
28 egos of Fazal-Karim and the Fazal-Karim Defendants.

B. It would be inequitable to allow Fazal-Karim to hide behind the corporate form.

382. Adhering to the fiction of separate existence of the Fazal-Karim Defendants would be inequitable because it would sanction fraud and promote injustice to the Debtors and their creditors because Fazal-Karim used Jetcraft Global, Jetcraft Asia, FK Group, and FK Partners to pay kickbacks disguised as off-shore commissions expressly to hide these fraudulent and illicit transactions from the Debtors and other parties.

383. Specifically, Behrend, Jetcraft's CFO, admitted in an email to Element that Jetcraft ran subagency payments that should have been made by Jetcraft Corp. or Jetcraft Global through subsidiaries, including Jetcraft Asia and FK Group, because of the "confidential and sensitive nature" of the payments. Similarly, Behrend at Fazal-Karim's direction paid the First Kickback from Jetcraft Global's account even though Jetcraft Global was not a party to or involved in the transaction for which the "commission" was purportedly owed to disguise the nature of the First Kickback. Fazal-Karim and Behrend misrepresented the corporate structure (i.e., they made payments from the accounts of Jetcraft Global, FK Group, and Jetcraft Asia rather than the party that purportedly owed the commissions) in bad faith to insulate Jetcraft from potential liability if their scheme was discovered.

384. Similarly, Fazal-Karim used subsidiaries like Orion and Jetcoast as mere shells or conduits for the business conducted by Jetcraft Corp. and Fazal-Karim. Each of these entities was incorporated under Jetcraft Global rather than Jetcraft Corp. These entities had no apparent capital at all and, at least in the case of Orion, were dissolved. These steps were taken to insulate Jetcraft Corp. and ultimately Fazal-Karim for potential liability, including from the transactions with the Debtors.

385. Fazal-Karim similarly used FK Group and FK Partners to insulate himself and Jetcraft from potential liability for the Nyota Credit bribe and any future bribes that could have been funneled to Cassidy in the form of credits on the Nyota.

386. Allowing the Fazal-Karim Defendants to maintain their separate existence in the face of the above acts would promote injustice because it would allow the Fazal-

1 Karim Defendants to limit their liability solely because Fazal-Karim caused and directed
2 subsidiaries and affiliates to undertake the wrongful acts.

3 **ALLEGATIONS RELATING TO AGENCY**

4 387. In addition to Bombardier's direct participation in the bribes, Bombardier is
5 also independently liable for the misconduct of its agent, Fazal-Karim, and the conspiracy
6 between Cassidy, Bombardier, and the Fazal-Karim Defendants.

7 388. Fazal-Karim negotiated the combined transactions for Planes 1-6 directly on
8 behalf of Bombardier along with Mattar and Yu in October through December 2015, as
9 described above. Fazal-Karim negotiated the purchase orders for Planes 8 and 9 directly on
10 behalf of Bombardier along with Mattar and Yu. Fazal-Karim also negotiated the
11 Challenger Transactions for Planes 12-15 on behalf of Bombardier along with Mattar and
12 Yu. In addition, Bombardier had a direct financial interest in the sale of Plane 1 because
13 Bombardier sold Plane 1 to Jetcraft and the pricing was structured such that Bombardier
14 would receive a percentage of any return earned by Jetcraft if and when Jetcraft elected to
15 resell the aircraft.

16 389. Bombardier and Fazal-Karim, individually, entered into several contracts
17 that ostensibly governed their relationship, including: (i) individual seller-representative
18 agreements that governed commissions; and (ii) a Sales Representative Agreement dated
19 July 1, 2016, effective through June 30, 2018. The circumstances of the Bombardier and
20 Fazal-Karim relationship, coupled with the operation of the agreements as a whole,
21 contradict any boilerplate disclaimers and show that Bombardier and Fazal-Karim
22 understood and agreed that Fazal-Karim was acting and holding himself out as
23 Bombardier's agent.

24 390. As seen below, Fazal-Karim, individually and through FK Group, publicly
25 holds himself out as Bombardier's *exclusive representative* for Southeast Asia. Even the
26 address for FK Group's webpage identifies FK Group as Bombardier's representative:
27 <http://www.fk-group.net/bombardier-representative>. Similar language has been used since
28

1 at least 2015. Upon information and belief, Bombardier has been aware of this website since
2 at least 2015.



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11 <http://www.fk-group.net/bombardier-representative>
12 (last accessed on August 25, 2019)²⁹

13 391. On October 22, 2017, in response to discovery requests from Bombardier
14 relating to a pre-petition lawsuit filed by the Debtors, Antonenko sent Bombardier a letter
15 on behalf of Jetcraft and Fazal-Karim that “Mr. Fazal-Karim, individually, represents
16 Bombardier as an authorized representative of Bombardier but not as a ‘distributor’ . . . Mr.
17 Fazal-Karim did . . . act as the representative for Bombardier in the sale of certain
18 Bombardier aircraft to Zetta Jet. Bombardier is fully aware of the aircraft sold by
19 Bombardier to Zetta Jet for which Mr. Fazal-Karim acted as Bombardier’s representative
20 and the compensation paid to Mr. Fazal-Karim relative to such sales.” Bombardier did not
21 dispute that Fazal-Karim was its agent.

22 392. As important, both Bombardier and Fazal-Karim acted as though Fazal-
23 Karim was an agent of Bombardier. Fazal-Karim was, internally and externally, a critical
24 member of the Bombardier team. For example, Bombardier gave Fazal-Karim sensitive
25 pricing information that Bombardier deems to be trade secret and provided him access to

26
27 ²⁹ Since the original Complaint was filed, FK Group has removed this page from its website
28 in a failed attempt to disguise the relationship between FK Group, Fazal-Karim, and
Bombardier. The page was up at all relevant times from at least 2015 to at least September
10, 2019.

1 Bombardier Business Aircraft's highest executives. Fazal-Karim participated in internal
2 Bombardier strategy decisions, made recommendations to executives, and received and
3 followed directions from executives, including the President of Bombardier Aviation.

4 393. Further, Bombardier controlled how Fazal-Karim managed customer
5 relationships and marketed Bombardier's planes around the world. Bombardier (i) trained
6 him, (ii) gave him the authority to use Bombardier's trademarks and logos, and (iii) required
7 him to comply with Bombardier policies.

8 394. Bombardier's agreements with Fazal-Karim treat him as an agent, not an
9 independent contractor, because they give Bombardier the right to control Fazal-Karim's
10 conduct with respect to the sale of aircraft. For example, in the Seller Representative
11 Agreement between BI and Fazal-Karim (which also covered BI's affiliates, including
12 BAC):

- 13 a. Bombardier granted Fazal-Karim the right "acquire the right to market and
14 sell" Bombardier aircraft;
- 15 b. Bombardier made Fazal-Karim its "PREFERRED sales representative" for
16 the territory;
- 17 c. Bombardier required that Fazal-Karim would "comply with Bombardier's
18 Code of Ethics and Business Conduct";
- 19 d. Bombardier gave Fazal-Karim the "right to use the trademark, trade name,
20 sign, logo, and symbol 'Bombardier' and any other trademarks, trade names,
21 and service marks owned by Bombardier or its Affiliates";
- 22 e. Bombardier required that Fazal-Karim not "make any claim or cause any
23 advertising, invitation, other promotional material or press release to be
24 issued containing information relating to the Aircraft, any other Bombardier
25 goods or services, or [Fazal-Karim's] relationship with Bombardier without
26 the prior written consent of Bombardier";
- 27 f. Bombardier required Fazal-Karim to "for a period of five years . . . prepare
28 and maintain accurate records as necessary to document its activities under

1 this Agreement and to verify that [he] has complied with this Agreement”;
2 and

3 g. Bombardier required that Fazal-Karim grant the “right to access” and to
4 “examine and audit these records and the systems and facilities they are
5 stored in and to interview its employees, managers and agents to verify
6 Compliance.”

7 395. Bombardier employees, including Mattar and Yu, constantly looked to
8 Fazal-Karim to handle matters on their behalf with the Debtors. Fazal-Karim is copied on
9 most of the e-mails between Cassidy and Bombardier regarding the negotiation of the
10 aircraft the Debtors purchased. Moreover, Bombardier employees worked hand-in-hand
11 with Fazal-Karim as their representative.

12 396. For example, Fazal-Karim negotiated the terms of the combined transactions
13 for Planes 1-6 on behalf of Bombardier with Cassidy in November 2015, as discussed
14 further above.

15 397. In a December 22, 2015, e-mail regarding the sale of Plane 6, Fazal-Karim
16 characterized himself as Bombardier’s agent in a transaction with Cassidy, without
17 contradiction from Bombardier: (i) “I am clearly Bombardier’s exclusive representative in
18 Singapore”; (ii) “the plane is delivering this year and we have done our job as Bombardier’s
19 rep to push the client to perform to achieve a year end delivery for Bombardier.”; and (iii)
20 “Geoffery Cassidy . . . is my client and to whom and with whom I negotiated this transaction
21 for Bombardier.”

22 398. In July 2016, Fazal-Karim worked with Mattar and Coleal (President of
23 Bombardier Aviation) to manage the Cassidy relationship. In a July 5, 2016, e-mail chain,
24 Fazal-Karim stated, “David, I apologize for bringing you in on the Zetta crisis but only you
25 can make a decision here to maintain a proper relationship with Geoff. Can [Mattar] and I
26 call you now?” Mattar then sent a follow up e-mail later in the day stating, “I would also
27 like to inform you that [Fazal-Karim] and I had a call with [Cassidy], and related all issues
28 discussed”

1 399. Fazal-Karim was paid handsome commissions in his individual capacity in
2 exchange for his services to Bombardier. Fazal-Karim received, at a minimum,
3 commissions of [REDACTED] each on Planes 2-6 and 11, and received or would have received
4 additional commissions of [REDACTED] each on Planes 8 and 9 as well as approximately [REDACTED]
5 [REDACTED] total on Planes 12-15, although it is not clear if all of those commissions were paid
6 because not all of the Planes were delivered.

7 **ALLEGATIONS RELATING TO**
8 **ACTUAL INTENT FRAUDULENT TRANSFER**

9 **A. Cassidy operated the Debtors as a fraudulent scheme**

10 400. Each of the obligations that Cassidy caused the Debtors to incur and each of
11 the transfers that Cassidy caused the Debtors to make was essential to and in furtherance of
12 Cassidy's fraudulent scheme to enrich himself at the expense of the Debtors and their
13 creditors. Cassidy caused the Debtors to acquire each of the 16 Planes and caused the
14 Debtors to make payments and transfers related to each of the 16 Planes to keep the scheme
15 on-going.

16 401. These were not ordinary business transactions separate from or outside of
17 Cassidy's fraudulent scheme. Rather, each transaction and transfer was necessary to the
18 continuance of and perpetuated Cassidy's fraudulent scheme to enrich himself with bribes
19 and kickbacks and to allow him to continue to embezzle millions from the Debtors.

20 402. The aircraft acquisitions from Jetcraft and its affiliates and Bombardier both
21 allowed Cassidy to receive kickbacks and bribes, and created a patina of legitimacy to allow
22 Cassidy to continue to grow and operate the Debtors' business.

23 403. The repayment of the financing loans kept credit flowing from Li, Minsheng,
24 Element, and other financiers and stabilized the Debtors' fraudulent house of cards.

25 404. Cassidy caused the Debtors to incur the obligations and made the transfers
26 with full knowledge that the Debtors' entire business was based on his fraudulent scheme.

27 405. By operating the Debtors as a fraudulent scheme, taking commercial bribes
28 and kickbacks, and embezzling millions, Cassidy totally abandoned the Debtors' interests

1 and acted entirely for his own purpose.

2 406. Accordingly, each of the transactions and transfers was made with actual
3 intent to hinder, delay, or defraud the Debtors' then and future creditors.

4 407. As part of his overarching fraudulent scheme, Cassidy conducted a Ponzi-
5 like scheme in which he used and attempted to use loans and investments from new
6 financiers to pay off old financiers. One aspect of this scheme was a refinancing by
7 Minsheng that allowed Cassidy to cause the repayment of investments by Li, made through
8 Universal Leader and Glove Assets.

9 408. The scheme began in 2015 with Cassidy's preparation of a materially false
10 and misleading "information memorandum" (the "First Business Plan") that promised
11 intentionally overstated profits and returns that Cassidy well knew were not achievable
12 through the Debtor's operations, in order to seek funding from investors, including Li, and
13 to induce various financiers to lend the Debtors significant funds that the Debtors would not
14 be able to repay. After convincing Li to invest significant sums by promising him these
15 outsized and unachievable returns, Cassidy then repaid Li with new funds from the
16 Minsheng and Yuntian entities.

17 409. Cassidy caused the First Business Plan to be sent to potential investors and
18 lenders in hallmark Ponzi scheme fashion. In furtherance of his scheme, Cassidy emailed
19 the First Business Plan to Fazal-Karim on September 16, 2015; to Li on October 28, 2015;
20 and to various financiers, including AVIC on September 15, 2015, to Element on January
21 17, 2016, and to at least three other financiers in September 2015.

22 410. The materially false and misleading statements in the First Business Plan,
23 which Cassidy necessarily knew to be false at the time the statements were made, include
24 the following:

- 25 a. The First Business Plan represents that Zetta PTE had contracted for
26 approximately \$75 million of block hours as of September 1, 2015. In fact,
27 Zetta PTE had not contracted for any block hours as of September 1, 2015.
28 Indeed, internal records show that as of August 2017, nearly two years later,

1 the Debtors had contracted for only \$46 million of block hours over the
2 entire life of Zetta PTE.

3 b. The First Business Plan projects EBITDA of \$38.8 million on \$85.8 million
4 in revenue with an EBITDA margin of 45.2 percent in FY 2016 and EBITD
5 of \$54 million on \$116.8 million in revenue with an EBITDA margin of 45.5
6 percent in FY 2017. Based on publicly available information, the Debtors'
7 more established competitors had EBITDA margins of less than 20 percent.
8 In fact, Zetta PTE's EBITDA margin in FY 2016 was approximately 16
9 percent.

10 c. The First Business Plan states that the Debtors were operating five planes as
11 of September 2015 and intended to acquire an additional 5 planes by the end
12 of FY 2017. Cassidy ended up tripling this number and causing the Debtors
13 to enter into agreements to acquire 15 additional planes by the end of FY
14 2017 (although many of these were not delivered).

15 d. The First Business Plan projects finance costs of \$4.7 million in FY 2016
16 and \$10.1 million in FY 2017, based on average effective interest rates of
17 5.36 percent per annum. Cassidy caused Zetta PTE to incur total financing
18 costs of \$19.8 million in FY 2016 and \$59.3 million in FY 2017 (not
19 including commitments of more than \$170.1 million in the third and fourth
20 quarters of 2017, which Zetta was unable to meet). Cassidy also caused Zetta
21 PTE to enter into agreements with effective interest rates of 7 percent or
22 more with Jetcraft and Element and 10 percent or more with Li's entities.

23 e. The First Business Plan projects average charter rates of "about US\$12,000
24 per hour for on-demand services and US\$13,800 per hour for blocked hours"
25 and projects that these are "expected to grow at 3% on year-on-year basis."
26 Based on internal records, Zetta PTE only ever signed one contract at or
27 above those rates for blocked hours and averaged approximately \$8,500 per
28 hour overall.

1 f. The First Business Plan projects costs for FY 2016 to be \$46 million. Actual
2 costs for FY 2016 were \$70 million (and that does not include the finance
3 lease payments).

4 411. In December 2015, Li became an investor in Cassidy's Ponzi-like scheme.
5 By that time, Li had previously purchased a Global 6000 (Plane 7) through his entity
6 Universal Leader in summer 2015 and allowed Zetta PTE to operate it. In December 2015,
7 Zetta PTE entered into finance lease agreements with Glove Assets for Plane 6 and
8 Universal Leader for Plane 7. The agreements contained onerous terms that were extremely
9 unfavorable to the Debtors and their estates. The agreements called for an effective interest
10 rate of 10 percent per year over a 60-month term with a balloon payment of \$20 million.
11 The 10 percent interest rate was well above market. The agreements also contained interest
12 prepayment penalties that required the Debtors to pay 50 percent of the remaining interest
13 payments upon an early "purchase" (including a refinancing) of the agreements to Universal
14 Leader and/or Glove Assets. The standard market rate for a prepayment penalty in the
15 aircraft financing industry ranges between 3 and 5 percent.

16 412. Cassidy also convinced Li (through his entity TGG) to invest \$19 million in
17 exchange for 100,000 shares, or 10%, of Zetta PTE pursuant to a Subscription Agreement
18 dated February 26, 2016. As part of this deal, Li also became a director of Zetta PTE. Li
19 also loaned the Debtors \$10 million for one year at 10 percent per annum as part of the same
20 deal. This loan was significantly above market rates, but entirely consistent with Cassidy's
21 10 percent guarantee.

22 413. With Li now a director of Zetta PTE, Cassidy continued his Ponzi-like
23 scheme by repaying Li through a refinancing and new funds obtained from Minsheng
24 (described above). In doing so, Zetta PTE paid Li and his entities a significant above-market
25 return using the new funds from Minsheng to keep the Ponzi-like scheme alive.

26 414. In the Minsheng Refinancing, Zetta PTE paid Li and his entities a significant
27 above-market return using new funds from Minsheng to keep the Ponzi-like scheme alive.
28 The structure of the deal proved that getting Li an above-market return was a priority. Of

1 the \$80 million in proceeds, \$55 million would go to Universal Leader to cover the full
2 principal balance owed on Plane 7 (\$46,949,152.52) plus \$8.6 million of a \$10.5 million
3 prepayment fee. The \$55 million payment generated a 33 percent annualized rate of return
4 on Universal Leader's eight-month loan for Plane 7 (in addition to the \$6 million that the
5 Debtors had already paid on Plane 7). They also agreed that an additional \$1,941,215.11 of
6 the remaining prepayment fee for Plane 7 would be added to the amount remaining on Plane
7 6, as an unsecured loan at a 10 percent interest rate.

8 415. In connection with this proposed restructure, Li requested that if Zetta PTE
9 was unable to repay its debts as they became due, that Cassidy and Zetta PTE prefer Li over
10 other creditors (in particular, AVIC and Minsheng) and repay him first on the Plane 6
11 "personal money" unsecured loan. Specifically, on June 28, 2016, Li emailed Cassidy and
12 wrote: "And I know you want to [have Plane 6] under the zettajet company, that means I
13 take higher risk because zettajet have nothing to guarantee, so you should promise if
14 business is not good, repay me first not mengshen and avic, they are company, I am the
15 personal money."

16 416. Thus, Cassidy used the new money from the Minsheng Refinancing to pay
17 off his initial investor Li at a 33 percent annualized rate of return, while also promising that
18 Li would continue to receive the guaranteed return of 10 percent per annum on all of the
19 funds he invested.

20 417. Li (through his entities) invested or loaned the Debtors more than \$150
21 million, consisting of: (1) \$50 million in December 2015 to fund the purchase of Plane 6;
22 (2) what was effectively a \$50 million loan to purchase Plane 7 from one of Li's entities;
23 (3) \$19 million in February 2016 in exchange for 10% of Zetta PTE; (4) \$10 million in
24 February 2016 as part of an above-market loan; (5) \$10 million in July 2016 as part of a
25 short-term loan and undisclosed profit-sharing agreement; and (6) \$15 million in June 2017
26 to purchase additional shares as a bridge loan to sustain the company until it could find new
27 investors.

1 418. But Li also received at least \$79.7 million back on the above-market loans
2 and as part of the Minsheng Refinancing (and he also still had approximately \$48.5 million
3 remaining on the unsecured Plane 6 loan and his 25 percent equity stake in Zetta PTE),
4 including (1) \$329,000 in interest on the \$48 million before it was used to purchase Plane
5 6; (2) \$12 million in “rent” payments on Planes 6 and 7; (3) \$2.3 million in above-market
6 interest payments on the loans; (4) \$55 million from the Minsheng Refinancing; and (5)
7 \$10.1 million in loan payments on the unsecured obligation relating to Plane 6. In short,
8 Cassidy paid Li back more than half of what Li put in at rates in excess of 10 percent per
9 annum and as high as 33 percent per annum.

10 419. During the summer of 2017, Cassidy made another run at furthering his
11 Ponzi-like scheme, this time through attempts to induce new investors or financiers to invest
12 in Zetta PTE, in order to allow him to pay off his previous promises of above-market returns.

13 420. Much like his earlier steps in furtherance of the scheme, Cassidy again
14 prepared a materially false and misleading information memorandum (the “Second
15 Business Plan”) to use in order to entice new investors. Ultimately the document was not
16 finalized because Cassidy was removed from his positions with the Debtors. But the last
17 draft of the Second Business Plan included numerous materially false statements.

18 421. The Second Business Plan estimated that the Debtors needed at least \$150
19 million in new investments, including \$105 million for aircraft acquisition, \$20 million to
20 refinance existing loans, and \$25 million for working capital. But Cassidy knew that Zetta
21 needed almost \$170 million in the second half of 2017 alone to make required payments on
22 the planes that had not yet been delivered (without taking into account the payments to
23 service the finance leases for planes that had already been delivered).

24 422. The Second Business Plan vastly misrepresented the Debtors’ revenues. It
25 stated that the Debtors generated revenues of \$122 million in 2016 and expected
26 approximately \$225 million in 2017. The Debtors generated revenues of \$89.8 million in
27 2016 and \$111.6 million in the first three quarters of 2017.

1 423. The Second Business Plan also overstated the Debtors EBIT margin by more
2 than double.

3 424. The Second Business Plan valued the Debtors' fleet at \$406.5 million, which
4 was overstated by at least \$100 million to \$150 million. For example, Plane 2 was valued
5 at \$69.7 million, which is more than \$20 million more than the Debtors paid for it and more
6 than \$32 million more than it was actually worth when the Debtors acquired it, without
7 taking into account any wear or depreciation in value.

8 425. The Second Business Plan asserted that the Debtors were not involved in any
9 pending or threatened legal proceedings, which was false at the time.

10 426. Cassidy took other steps in furtherance of his Ponzi-like scheme in addition
11 to drafting the Second Business Plan, including enlisting a French investment bank to try to
12 find new investors. In addition, Cassidy contacted a Chinese private equity and venture
13 capital fund for the same purpose, and began meeting with personnel affiliated with Wu to
14 try to get him to invest. But Cassidy was unable to find any new investors to pay off his
15 existing investors and financiers.

16 427. In another Ponzi-like scheme, Cassidy also caused the Debtors to sell "block
17 hours" (pre-paid hours for a jet charter at a fixed price) that he knew the Debtors would
18 never be able to fulfill, as a means of "extracting," in his own words, "immediate cash to
19 pay for obligations," including both legitimate expenses of the Debtors and Cassidy's
20 misappropriations. In fact, customers who purchased block hours lost millions of dollars
21 when the Debtors failed.

22 428. The Debtors sold approximately \$46 million worth of block hours (not
23 counting the \$11 million of block hours in the Falconwing transaction). As of August 2017,
24 those customers had used only \$30 million of the block hours and had a balance of at least
25 \$16 million (\$27 million including the block hours in the Falconwing transaction) that they
26 were unable to use due to the commencement of the chapter 11 cases.

27 429. In an August 10, 2017, e-mail to Seagrim and Walter, Cassidy expressly
28 stated that by selling block hours he was "extracting immediate cash to pay for obligations"

1 while “any downside of the transaction can be realised in years to come when the company
2 is stable.”

3 430. Similarly, in a September 1, 2016, email to a customer (at approximately the
4 same time that Cassidy had represented to Seagrim and Walter that the Debtors had
5 “breathing room of 1.5 months” and could barely keep off the wolves), Cassidy offered a
6 “prepayment purchase of a bulk block hours” with no time limit for \$8,000 per block hour,
7 as long as the customer made a “full prepayment.” Cassidy represented to the customer that
8 this was “near the cost of operating the aircraft.” In fact, it was significantly below the cost
9 of operating the aircraft after taking into account the financing costs.

10 **B. Cassidy believed that the consequences of his actions were substantially certain to**
11 **hinder, delay, or defraud creditors, and should have seen this result as a natural**
12 **consequence of his actions**

13 431. Because Cassidy was engaged in a commercial bribery and kickback
14 scheme, fraud, misappropriations, and Ponzi-like schemes, he believed at the time of each
15 aircraft transaction that the consequences of his actions were substantially certain to hinder,
16 delay, or defraud the Debtors’ creditors, and Cassidy should have seen this result as a natural
17 consequence of his actions.

18 432. More than that, because the Debtors could not operate profitably or generate
19 sufficient revenues to service the loans on the Planes, Cassidy believed at the time of each
20 aircraft transaction that the consequences of his actions were substantially certain to hinder,
21 delay, or defraud the Debtors’ creditors, and Cassidy should have seen this result as a natural
22 consequence of his actions.

23 433. As set forth below, the Debtors were by Cassidy’s own admission made
24 insolvent by the Plane 1 transaction and the subsequent transactions did not improve that
25 position.

26 434. In addition, the Debtors’ records show that they could not operate the Planes
27 profitably.

28 435. In December 2015, while negotiating the financing for Planes 2-5, AVIC
was concerned about whether the Debtors were “stable.” Cassidy prepared a spreadsheet at

1 AVIC's request to demonstrate the Debtors' "break even" point to service the debt on the
2 new aircraft acquisitions (Planes 1-6 and 7, which the Debtors had been operating but would
3 now own). The spreadsheet showed that the Debtors would need to fly each plane at an
4 average rate of \$10,000 per hour. Cassidy asserted this would equal approximately \$5,500
5 in "profit per hour," but from context meant EBITDA per hour (i.e., the cash flow available
6 to service the loans). In reality, the Debtors would need to fly each plane at an average rate
7 of approximately \$35,100 per hour to break even. The spreadsheet also showed that the
8 Debtors would need to fly each plane for approximately 100 hours per month (and the new
9 Globals (Planes 1-7) for 160 hours per month) at the \$10,000 per hour rate.

10 436. Yet the Debtors' average revenue per hour during the relevant period was
11 less than \$8,000 per hour. The EBITDA per hour was less than \$2,000 per hour. And the
12 Debtors could not make up the difference on volume (even ignoring the understated break-
13 even price, the logistical difficulties of tripling the number of flight hours per aircraft, and
14 the increased maintenance and down time that would come from additional flights) because
15 the new Globals (some of which would not be delivered for months or years) were flying
16 less than 160 hours per month.

17 437. In other words, the Debtors could not meet their "break even" numbers—let
18 alone the numbers in the fraudulently inflated First Business Plan—and thus never had a
19 realistic possibility of servicing the loans for the new Planes.

20 438. Internal records show that it was actually much worse than that, due in part
21 to Cassidy's theft and embezzlement as well as the exorbitant interest penalty he paid Li in
22 the Minsheng Refinancing as part of his Ponzi-like scheme. Internal debtor records show
23 that at the rates Zetta PTE was able to charge, the Debtors were incurring a net *loss* of
24 \$874.17 per flight hour for the 15 months ending October 31, 2016 based on Zetta PTE's
25 audited financial statements and a net *loss* of \$374.21 per flight hour for the 6 months ending
26 April 30, 2017, based on unaudited financial statements.

27 439. Similarly, an analysis of the Debtors' combined financials shows that the
28 Debtors' operating income was never sufficient to cover the principal and interest payments

1 on the Planes. Yet the Debtors kept adding more liabilities and obligations despite knowing
2 that their operations would not be sufficient to cover the debt service on those obligations.

3 440. Even if Cassidy's obvious frauds in 2015 could be attributed to wishful
4 thinking of a start-up entrepreneur, and they cannot, Cassidy knew beyond any doubt in the
5 summer of 2016 that his business plan was a failure and that the Debtors were on the verge
6 of liquidation. As such, Cassidy should have immediately cancelled the hundreds of
7 millions in pending purchase orders with Bombardier (for Planes 3-5 and 8-9) and
8 renegotiated the exorbitantly above-market deals with Li (for Planes 6 and 7) to bring them
9 back to market. Had he done so, the Debtors would have had a fighting chance to survive
10 given the existing fleet (including aircraft inherited from the previously profitable Zetta
11 USA) and more than [REDACTED] in deposits that Bombardier would have been obligated to
12 return to the Debtors.

13 441. Rather than pursuing this responsible path, Cassidy used his threat to cancel
14 Bombardier orders, not to get a price reduction or other relief from Bombardier, but to get
15 F1 tickets and the promise of Sea-Doos for the yacht he had purchased with embezzled
16 funds. With these commercial bribes in hand, Cassidy moved forward in September 2016
17 to close on one purchase from Bombardier (Plane 3) and two purchases from Jetcraft and
18 Element (Planes 10 and 11), incurring \$150 million in debt that Cassidy assuredly knew by
19 then that the Debtors would never be able to repay, while signing new agreements to
20 purchase four additional planes from Bombardier (Planes 12-15). He also rescinded his
21 threat to cancel three additional purchases from Bombardier (including Plane 4, which
22 closed in March 2017). This resulted in present and future revenue for Bombardier of more
23 than [REDACTED] and present and future commissions and other profits of more than [REDACTED]
24 [REDACTED] for Fazal-Karim. Cassidy also moved forward with the Minsheng Refinancing to
25 pay Li a 33% return on Plane 7.

26 442. Most importantly from Cassidy's perspective, Cassidy was able to
27 immediately steal \$2.6 million from closing proceeds, secure a second \$500,000 kickback
28

1 from Fazal-Karim, and misappropriate another \$4.5 million of Zetta funds for the Dragon
2 Pearl, his Singapore condominium, and other personal luxury items.

3 443. Aircraft financing debt more than doubled from \$200 million to \$450 million
4 after the closings in September 2016 and the closing of Plane 4 in March 2017.

5 444. Meanwhile, trade creditors were left holding the bag—they were not getting
6 paid the amounts they were owed and the overall amount due to them was exploding.
7 Overdue trade payables leapt from \$5 million to over \$55 million from September 2016
8 through commencement of the cases.

9 445. Cassidy was able to prioritize the financiers over the trade creditors until
10 February 2017, at which point the overdue payments on the loans also exploded, to more
11 than \$20 million by the time of filing.

12 446. Cassidy's actions were not the actions of a deluded entrepreneur who hoped
13 the goals of business plan might someday be realized. His actions were those of a thief who
14 knew creditors would suffer from his actions.

15 447. Under these circumstances, Cassidy believed at the time of each aircraft
16 transaction that the consequences of his actions were substantially certain to hinder, delay,
17 or defraud the Debtors' creditors, and Cassidy should have seen this result as a natural
18 consequence of his actions.

19 **C. The Badges of Fraud**

20 448. The kickbacks and bribes were not disclosed to the Debtors' other directors
21 whose approval was required to consummate each transaction.

22 449. The transactions involving Planes 1-6 were negotiated simultaneously by
23 Cassidy and Fazal-Karim as part of a single purchasing program that involved all or
24 substantially all of the Debtors' assets. The transactions involving Planes 10-11 and 12-15
25 involved all or substantially all of the Debtors' available cash at the time of each transaction
26 (excepting amounts that Cassidy simply stole from the Debtors at approximately the same
27 time as those transactions).
28

1 450. Cassidy removed assets from the Debtors in the transactions involving
2 Planes 1-6 when he received the First Kickback, in the transactions involving Planes 10-11
3 when he received the Second Kickback, and in the transactions involving Planes 6-7 and
4 12-15 as part of the Minsheng Refinancing, which Cassidy engineered in part to steal almost
5 \$5 million from the Debtors to purchase the Dragon Pearl yacht and other luxury items.

6 451. As described in paragraphs 341-360 and 465-466, the Debtors did not
7 receive reasonably equivalent value in the transactions.

8 452. As described below in paragraphs 467-474, the initial payments on Plane 1
9 alone made the Debtors insolvent. Similarly, the initial payments on Planes 1 and 6 (even
10 after accounting for additional projected revenue), made the Debtors insolvent. Further, as
11 described above in paragraphs 431-447, from an income perspective, each Plane was a net
12 loser for the Debtors at the rates that the Debtors were able to charge.

13 453. Each of the transfers to the Defendants described in this Complaint was made
14 shortly before or after the Debtors incurred substantial debt.

15 454. Cassidy and Fazal-Karim had a special relationship because they were, at the
16 time of the transactions in question, close associates and friends. Fazal-Karim and Cassidy
17 had a very close association, and as Cassidy indicated in his personal statement Fazal-Karim
18 was involved in “many aspects of the Company.” Fazal-Karim essentially became an insider
19 at the Debtor, negotiating on behalf of the Company and profiting off of the Zetta aircraft
20 transactions. The two also initiated a joint venture to purchase and charter a yacht together.
21 They also traveled together and spent time together socially. All of this shows that Fazal-
22 Karim and Cassidy were not mere business associates, but were close associates and friends.

23 455. Fazal-Karim indicated on prospect registration forms with Bombardier that
24 had “known Geoff Cassidy for many years when he was operating planes for other clients
25 of mine” and “[m]aintained my relationship with him through his career and founding of
26 Zetta Jet.” Emails recovered by the Trustee show that Cassidy knew Fazal-Karim for more
27 than five years before Zetta Pte was founded.
28

1 456. Cassidy and Fazal-Karim were close associates based on Fazal-Karim's
2 involvement in the Debtors' business and operations. In a personal statement Cassidy sent
3 out defending his actions after the Debtor filed for bankruptcy, he asserted that Fazal-Karim
4 was involved in "many aspects of the Company" and credited Fazal-Karim with Zetta
5 "reach[ing] the heights it did."

6 457. Fazal-Karim essentially became an insider of the Debtors. Cassidy agreed to
7 purchase the Planes exclusively through Fazal-Karim's company Jetcraft Corp. and its
8 affiliates or from Bombardier with Fazal-Karim acting as Bombardier's agent. Fazal-Karim
9 was deeply involved in the majority of the Debtors' transactions.

10 458. For example, Fazal-Karim and Mattar discussed "coach[ing]" Cassidy on his
11 communications with Bombardier executives and Fazal-Karim ghost-wrote (with input
12 from Mattar) draft communications between Cassidy and Bombardier executives, including
13 Bombardier Business Aircraft President Coleal.

14 459. Cassidy and Fazal-Karim's close association is further demonstrated by their
15 involvement together in various side businesses and agreements, both before and during
16 Cassidy's time at the Debtors.

17 460. For example, in August 2012, Cassidy and Fazal-Karim discussed an
18 agreement in which Asia Aviation and Jetcraft Corp. would co-market an Embraer Legacy
19 600 and split the profits. Cassidy repeatedly approached Fazal-Karim with various business
20 opportunities over the years.

21 461. Cassidy and Fazal-Karim also agreed to purchase and charter the yacht
22 Nyota in 2017. Cassidy and Fazal-Karim agreed to purchase of the yacht Nyota in Cassidy's
23 personal name, separate from the Debtors' business (although they agreed to use the
24 Debtors' contractors and put the yacht on the Debtors' insurance policy without reimbursing
25 the Debtors). The transaction was not disclosed to or agreed to by the Debtors' uninterested
26 directors and management. Cassidy ultimately failed to pay his half of the purchase price,
27 but both men were deeply involved in the purchase and outfitting of the yacht.
28

1 462. Fazal-Karim and Cassidy were also friends. For example, Fazal-Karim and
2 Cassidy planned and went on various social trips together with other friend and family
3 members, including going to Miami to “party” and going to Las Vegas to see a Connor
4 McGregor fight.

5 463. Because Fazal-Karim is the alter ego of Jetcraft Corp. and the other Fazal-
6 Karim Defendants, his special relationship with Cassidy also applies to them.

7 464. Because Fazal-Karim was acting as Bombardier’s agent in each of the
8 transactions, his special relationship with Cassidy also applies to Bombardier.

9
10 **ALLEGATIONS RELATING TO**
11 **CONSTRUCTIVE FRAUDULENT TRANSFER**

12 **A. The Debtors did not receive reasonably equivalent value in the Transactions**

13 465. Under a variety of different analyses, including both the Fair Market Value
14 and the Estate Value, the Debtors did not receive reasonably equivalent value for the Planes.

15 466. As discussed in paragraphs 341-344 above, an analysis of the Fair Market
16 Value of each Plane reveals that the Planes were significantly overpriced. Similarly, as
17 discussed in paragraph 345 above, an analysis of the Estate Value of each Plane reveals that
18 the Planes were significantly overpriced.

19 **B. The Debtors were insolvent at the time of or were made insolvent by each Transaction**

20 467. The Debtors were insolvent almost from the inception of Zetta PTE in July
21 2015.

22 468. Each of the aircraft transactions either made the Debtors insolvent or
23 occurred when the Debtors were already insolvent.

24 469. Cassidy repeatedly emailed Seagrim and Walter that Zetta would be
25 insolvent based on the aircraft purchases.

26 470. Cassidy e-mailed Seagrim and Walter a “Zetta Jet Overview” as of
27 December 2, 2015, that showed that Zetta PTE would be more than \$1.6 million in the red
28 based on the closing of Plane 1—*without* considering the acquisitions of Planes 2-7. The

1 document also shows that a portion of the funds that Zetta PTE planned to use to pay the
2 deposit on Plane 1 came from Zetta USA.

3 471. Cassidy e-mailed Seagrim and Walter an updated “Zetta Jet Overview” as of
4 December 8, 2015, that showed that Zetta PTE would still be more than \$1.2 million in the
5 red after the closing of Planes 1 and 6—again, *without* considering any of the other
6 acquisitions. The document again shows that a portion of the funds that Zetta PTE planned
7 to use to pay the deposit on Plane 1 came from Zetta USA.

8 472. As of December 31, 2015, the Debtors’ consolidated balance sheet, at fair
9 value, after giving effect to the closings on Planes 1, 6, and 7, indicated assets of \$114
10 million and liabilities of \$140 million, thus showing a net deficit of \$36 million.

11 473. In June 2016, Cassidy emailed Seagrim and Walter in connection with the
12 refinancing of Planes 6 and 7 that they needed to approve the deal because the Debtors only
13 had “breathing room of 1.5 months.” Despite that knowledge, Cassidy stole millions of
14 dollars from the proceeds of the refinancing.

15 474. Using the valuations of the planes developed by expert analysis discussed
16 above at paragraphs 341-345, Zetta PTE was balance sheet insolvent from December 2015
17 to the time of filing as well as at the time that each of the transactions closed.

18 **C. The Debtors had unreasonably small capital**

19 475. To the extent that the Debtors were technically solvent at any point after
20 December 1, 2015, they were just barely so and left in a condition in which bankruptcy was
21 substantially likely because at most, they only had capital sufficient to fund the small initial
22 deposits on the Planes, and the Debtors even stopped providing those initial down payments.

23 476. Any funds that came in from operations, investments from Li, or the
24 Minsheng Refinancing were either stolen by Cassidy or used to incur additional debt rather
25 than pay down the existing Planes or the Debtors’ other creditors.

26 **D. The Debtors incurred debts that they knew they could not pay as they came due**

1 477. Cassidy knew at the time that he closed on each of the Planes and incurred
2 the related obligations that the Debtors likely would not be able to pay their current and
3 subsequent creditors as their claims matured.

4 478. At the time that Cassidy caused the Debtors to enter into and close on each
5 of the transactions, Cassidy planned to take kickbacks and bribes and to embezzle millions
6 from the Debtors. Cassidy knew that his operation of the Debtors as a fraudulent scheme
7 would result in the Debtors' failure, and that the Debtors' current and subsequent creditors
8 likely would not be paid.

9 479. But even setting aside Cassidy's fraud, when the first transactions closed in
10 December 2015, the Debtors were already behind on their bills and balance sheet insolvent.

11 480. The other metrics similarly showed an inability to pay debts as they came
12 due. As discussed above, the Debtors were not able to charge rates high enough to reach
13 their self-described "break even" point and the Debtors were operating the aircraft at a net
14 loss per flight hour. Adding additional planes and flying more hours thus worsened rather
15 than improved their position.

16 481. Similarly, as discussed above, the Debtors were never able to generate
17 sufficient operating income to service their debt.

18 482. Cassidy's only plan to pay current and subsequent creditors was by
19 convincing new investors or financiers to provide funds based on fraudulent business plans
20 and above-market returns. Yet even after they received investments from Li or new
21 financing such as in the Minsheng Refinancing, the Debtors remained insolvent and
22 remained behind on their bills. Cassidy never had any plan or intention to pay the debts that
23 the Debtors incurred with legitimate funds, nor could he because the Debtors were never
24 able to generate sufficient revenue to pay down their debts.

25 483. The Debtors' overdue trade payables confirms that Cassidy had no plan or
26 ability to pay debts as they came due. Because Cassidy had to prioritize debt service over
27 all other obligations, to keep the scheme from collapsing, the Debtors' overdue trade
28

1 payables exploded, from approximately \$1.6 million in December 2015 to almost \$55
2 million when the Debtors filed for bankruptcy.

3 484. All of the above confirms that Cassidy had no plan or intention for the
4 Debtors to pay their debts as they came due.

5 **ALLEGATIONS RELATING TO**
6 **PREFERENCE TRANSFERS**

7 485. The Trustee is entitled to and seeks to avoid preference transfers made to
8 BAC and Learjet during the 90 days prior to the Petition Date (the “Preference Period”).

9 486. During the Preference Period, the Debtors are presumed to be insolvent
10 under 11 U.S.C. § 547(f), and in fact were insolvent.

11 **A. The Promissory Note Preference Transfer**

12 487. On December 10, 2015, Zetta PTE and BAC entered into an aircraft purchase
13 agreement for Plane 4.

14 488. In connection with the purchase of Plane 4, Zetta PTE and BAC entered into
15 a promissory note dated March 28, 2017 (the “Promissory Note”). A copy of the Promissory
16 Note is attached as Exhibit 13. [REDACTED]

17 [REDACTED]
18 489. Zetta PTE made a transfer of \$3,262,834 to BAC on June 27, 2017, 80 days
19 before the Petition Date, to satisfy the antecedent debt on the Promissory Note (the
20 “Promissory Note Payment”).

21 490. Based on the Promissory Note, BAC was unsecured.

22 491. The transfer allowed BAC to receive more than it would have in this Chapter
23 7 proceeding.

24 492. The Debtors were insolvent at the time of the transfer.

25 **B. The Settlement Agreement Preference Transfer**

26 493. Following the delivery of Plane 12, the Debtors alleged that Plane 12
27 suffered from various technical issues, and a dispute (the “Dispute”) arose between the
28 Debtors and Bombardier regarding Plane 12’s technical issues and the operating costs to be

1 paid to Zetta PTE under a time sharing agreement between Global Flight, Inc. (“Global
2 Flight”), an affiliate of BI, and Zetta USA, whereby Global Flight agreed to lease Plane 12
3 and its flight crew from Zetta USA on a time sharing basis.

4 494. In addition, the Debtors obtained repair and maintenance work at BAC
5 service centers and had an outstanding balance, which Bombardier alleged it was owed (the
6 “Bombardier Claim”).

7 495. On June 21, 2017, the Debtors, BI, and BAC entered into a settlement
8 agreement (the “Settlement Agreement”), under which the parties resolved the Dispute and
9 the Bombardier Claim. A copy of the Settlement Agreement is attached as Exhibit 14. Under
10 the Settlement Agreement, the Debtors were required to pay BI and BAC [REDACTED] on or
11 before June 30, 2017.

12 496. Zetta PTE made a transfer of [REDACTED] to Learjet for the benefit of BI and
13 BAC on July 3, 2017, 74 days before the Petition Date, in payment of the antecedent debt
14 regarding the Dispute that was resolved under the Settlement Agreement (the “Settlement
15 Agreement Payment”).

16 497. Based on the Settlement Agreement, Learjet, BI, and BAC were unsecured.

17 498. The transfer allowed Learjet, BI, and BAC to receive more than they would
18 have in this Chapter 7 proceeding.

19 499. The Debtors were insolvent at the time of the transfer.

20 **ALLEGATIONS RELATING TO**
21 **STAY VIOLATIONS**

22 500. The Trustee also brings claims against BAC for violations of the automatic
23 stay under 11 U.S.C. § 362.

24 501. BAC violated and continues to violate the automatic stay under 11 U.S.C.
25 § 362 because it refused to pay amounts due under charter agreements and impermissibly
26 set off debts.

27 502. Zetta PTE and BAC (together, the “Charter Parties”) are party to a series of
28 15 agreements through which Zetta PTE would provide charter services on its aircraft to

1 BAC (the “Charter Agreements”). The Charter Agreements were entered into between
2 January 17, 2017, and September 5, 2017. BAC owes Zetta PTE \$2,360,190 for unpaid
3 charter services under the Charter Agreements (the “Bombardier Debts”).

4 503. The Bombardier Debts were immediately due and payable, with past due
5 interest, and were not subject to setoff or deduction. Paragraph 5(a) of the Zetta Terms and
6 Conditions attached to the Charter Agreements provides that:

7 [a]ll payments due to Zetta Jet [PTE] shall, unless otherwise
8 agreed by Zetta Jet [PTE], be paid by the client in the manner
9 agreed and/or stated on the invoice on its issuance (the
“Payment Deadline”). without setoff or deduction. Time
of payment of the Charter Price is of the essence.

10 (emphasis added). Further, in paragraph 5(b) of the Charter Agreement, “[a]ll outstanding
11 payments due to Zetta Jet [PTE] shall be subject to interest at 10% per annum from the date
12 due until Payment to Zetta Jet [PTE].” The contract is fully integrated and cannot be
13 modified unless made in writing and signed by both parties. No other agreement, much less
14 an agreement made in writing signed by both Charter Parties, alters the Charter Parties’
15 obligations discussed above.

16 504. Upon information and belief, BAC exercised an impermissible setoff of the
17 Bombardier Debts against amounts owed to it by the Debtors (the “Bombardier Setoff”) on
18 September 7, 2017, eight days before the Petition Date. There is no writing signed by both
19 parties permitting a deviation from the express terms of the Charter Agreements/Zetta
20 Terms and Conditions prohibiting setoff. Therefore, BAC’s impermissible setoff constitutes
21 a recoverable preferential transfer of the Debtors’ property within the 90-day period
22 immediately prior to the Petition Date.

23 505. Subsequent to the Petition Date, prior to learning of BAC’s impermissible
24 Setoff of the Bombardier Debt, the Trustee, through his counsel, demanded that BAC remit
25 the Bombardier Debt to the Debtors’ estates. Thereafter, BAC informed the Trustee that it
26 exercised the Setoff of the Bombardier Debt against amounts owed to it by Zetta PTE,
27 despite the fact that the Charter Agreements and related documents prohibited any setoff
28 absent a writing executed by both Bombardier and Zetta PTE. BAC has failed to produce

1 any such writing (other than furnishing the existing Smart Parts Agreements, which are
2 inapplicable). BAC's impermissible Setoff and continued refusal to turn over the
3 Bombardier Debt to Zetta PTE's estates constitutes a continuing, ongoing violation of the
4 automatic stay.

5 506. In addition, the Charter Parties are party to a series of executory contracts,
6 one of which requires BAC to provide services related to existing warranties on aircraft (the
7 "Warranty Contract"). The second bundle of contracts are a series of Bombardier Smart
8 Parts Preferred Agreements, which have varying terms, the longest extending through 2022
9 (the "Smart Parts Contract," and together with the Warranty Contract, the "Service
10 Agreements"). The Service Agreements are executory contracts under 11 U.S.C. § 365
11 because performance remains outstanding by each of the Charter Parties.

12 507. Zetta USA (through its predecessor AAM), as lessee, and Scout Aviation II,
13 LLC ("Scout"), as lessor, are party to an Exclusive Aircraft Lease Agreement, dated
14 October 7, 2014 (as amended, the "Scout Aircraft Lease") for the lease of a Bombardier
15 Global Express BD-700-1A10 aircraft (the "Scout Aircraft"). The Scout Aircraft was in
16 BAC's possession as of December 5, 2017. Prior to the Petition Date, BAC was performing
17 "spot work" on the Scout Aircraft under the Smart Parts Contract. BAC ceased work on the
18 Scout Aircraft prior to the Petition Date and refused to recommence work on the Scout
19 Aircraft during the Chapter 11 Cases. BAC asserted a perfected lien against the Scout
20 Aircraft under A.R.S. § 33-1022(A) and attempted to provide notice of such alleged lien
21 pursuant to 11 U.S.C. § 546(b). The Debtors and Scout disputed the validity of BAC's lien.

22 508. BAC refused to perform under the Smart Parts Agreement with respect to
23 the Aircraft. As Zetta USA was the lessor under the Aircraft Lease prior to its rejection, its
24 leasehold interest in the Aircraft was property of its bankruptcy estate under 11 U.S.C. §
25 541. Further, the Smart Parts Agreement was an executory contract and BAC was required
26 to perform under such agreement during the Chapter 11 Cases. BAC's refusal to perform
27 under the Smart Parts Agreement violated the automatic stay and constituted an unlawful
28 interference with Zetta USA's leasehold interests under the Aircraft Lease.

ALLEGATIONS RELATING TO
CHOICE OF LAW

509. The choice-of-law provisions in the relevant agreements do not affect the Trustee's claims for three separate and independent reasons.

A. The Trustee is not bound by the choice-of-law provisions

510. The Trustee is not bound by the choice-of-law provisions in the agreements because the agreements were part of actual or constructively fraudulent transfers or obligations.

511. The parties to a contractual conveyance or transaction subject to avoidance cannot in their contract make a choice of law that binds the Trustee and creditors who allege they were defrauded by, or could otherwise avoid, the conveyance. *See, e.g., In re Morse Tool*, 108 B.R. 384, 386 (Bankr. D. Mass. 1989); *In re EPD Inv. Co., LLC*, 821 F.3d 1146, 11511152 (9th Cir. 2016).

512. Choice-of-law provisions cannot bind non-parties to an agreement unless the non-parties are third-party beneficiaries of the agreement.

513. For the purpose of the Trustee's claims under 11 U.S.C. §§ 542, 547 and 548, the Trustee stands in the shoes of the creditors, not the Debtors. *In re EPD Inv. Co., LLC*, No. CV 13-08768 SJO, 2014 WL 12597148, at *4 (C.D. Cal. Aug. 29, 2014), *aff'd*, 821 F.3d 1146 (9th Cir. 2016).

514. The Trustee was thus not a party to the relevant agreements.

515. The Trustee was not a third-party beneficiary of the relevant agreements.

516. The innocent creditors were not parties to the relevant agreements.

517. The innocent creditors were not third-party beneficiaries of the relevant agreements.

518. The Trustee alleges in Counts 8-17, 21-22, and 31-32 that the estates were actually or constructively defrauded by the conveyances and obligations at issue in the contracts. Specifically, the Trustee asserts that each of the transfers made and obligations incurred was actually or constructively fraudulent.

1 519. More to the point, in addition to being actually and constructively fraudulent
2 transfers or obligations, the agreements were fraudulent because Cassidy caused the Debtors
3 to enter into the agreements in exchange for kickbacks and bribes, as part of his Ponzi-like
4 schemes, and to misappropriate funds from the Debtors (including without limitation in the
5 Minsheng Refinancing).

6 520. Accordingly, the choice-of-law provisions in the agreements do not bind the
7 Trustee or the creditors on whose behalf the Trustee is proceeding.

8 **B. The choice-of-law provisions are ineffective under the relevant choice-of-law rules.**

9 521. Bankruptcy courts apply federal choice-of-law rules. Federal courts apply
10 the Restatement (Second) of Conflicts of Laws. Restatement § 6(1) provides that “[a] court,
11 subject to constitutional restrictions, will follow a statutory directive of its own state on
12 choice of law.” Restatement § 6(1) “applies to choice of law clauses in a contract when a
13 state has a statutory directive concerning such clauses.” *In re Gibson*, 234 B.R. 776, 779-
14 80 (Bankr. N.D. Cal. 1999). Restatement § 187 “is intended to apply only when there is no
15 such statutory directive.” *Id.*

16 522. California Commercial Code § 1301 is a statutory directive under
17 Restatement § 6(1).

18 523. The choice-of-law provisions in the CAVIC Finance Leases, the Minsheng
19 Finance Leases, and the Plane 12 Finance Lease selecting English law are not effective
20 under Section 1301 because the transactions at issue do not have a “reasonable relation” to
21 England.

22 524. None of the parties to the CAVIC Finance Leases, the Minsheng Finance
23 Leases, the Plane 12 Finance Lease, the Minsheng Refinancing, or the Plane 2, 3, 4, or 12
24 transactions resides in England, is incorporated or organized under English law, or has its
25 principal place of business in England.

- 26 a. Wells Fargo is organized under Utah law and its registered office and
27 principal place of business are in Utah.
28

- b. TVPX is organized under Wyoming law and its registered office and principal place of business are in Wyoming.
- c. Zetta Pte is organized under Singapore law and its registered office and principal place of business are in Singapore.
- d. Zetta USA is organized under California law and its registered office and principal place of business are in California.
- e. The Zetta BVI Subsidiaries are organized under BVI law and their registered offices are in BVI, while their principal place of business is in Singapore.
- f. Glove Assets is organized under BVI law and its registered offices are in BVI, while its principal place of business is in Hong Kong.
- g. EDC is a Canadian state-owned entity with its principal place of business in Canada.
- h. BAC is organized under Delaware law and has its registered office and principal place of business in Texas.
- i. BI is organized under Canadian law and has its registered office and principal place of business in Canada.
- j. AVIC is organized under Chinese law and has its registered office and principal place of business in China.
- k. CAVIC is organized under Irish law and has its registered office and principal place of business in Ireland.
- l. The CAVIC Statutory Trusts are organized under Delaware and Wyoming law, and have their registered offices and principal places of business in Delaware and Wyoming.

525. The place of payment was not in England. For Planes 2-5 and 12-15, the place of payments to BAC was Texas, while the place of payments to CAVIC and the Yuntian Entities was in Ireland. For Planes 6 and 7, the place of payment for the aircraft

1 payments was in New York, while the place of payment for the rent payments was in Hong
2 Kong.

3 526. The denomination of all payments was in US dollars, not pounds sterling.

4 527. The Planes were not located in England at the time of closing. All of the
5 Planes were located within the US at the time of closing. Planes 2, 3, 4, 6, and 12 were
6 located at Windsor Locks, Connecticut. Upon information and belief, Plane 7 was located
7 at Hartford, Connecticut.

8 528. The parties were not located in England at the time of execution of the
9 contracts. Bank of Utah and Wells executed in Utah, TVPX in Wyoming, Zetta PTE and
10 the Zetta BVI entities in Singapore, Zetta USA in California, CAVIC and Glove Assets in
11 China, and BAC in Texas.

12 529. In short, there is no connection whatsoever between the CAVIC Finance
13 Leases, the Minsheng Finance Leases, the Plane 12 Finance Lease, the Minsheng
14 Refinancing, or the Plane 2, 3, 4, or 12 transactions and England.

15 530. The choice-of-law provisions in the APAs for Planes 2-6 and 12-15 selecting
16 New York law similarly are not effective under Section 1301 because the APAs at issue do
17 not have a “reasonable relation” to New York.

18 531. Neither Zetta PTE nor BAC (the only parties to the APAs) resides in New
19 York, is incorporated or organized under New York law, or has its principal place of
20 business in New York.

21 532. The place of payment under the APAs for Planes 2-6 and 12-15 was
22 Bombardier’s Bank of America account in Texas.

23 533. Each of the APAs contemplates delivery of the Planes in Windsor Locks,
24 Connecticut.

25 534. The parties were not located in New York at the time of execution of the
26 contracts. The letters of intent were executed in Las Vegas for Planes 2-6. The APAs for
27 Planes 2-6 were executed in Texas by BAC and in Singapore by Zetta PTE. The APAs for
28 Planes 12-15 were executed in Orlando.

1 535. In short, there is no connection whatsoever between the APAs for Planes 2-
2 6 and 12-15 and New York.

3 536. In the absence of an effective choice of law provision, Section 1301 requires
4 the application of California law if the transaction has an “appropriate relation” to
5 California.

6 537. The transaction has an “appropriate relation” to California. As noted above,
7 Zetta USA is organized under California law and has its registered office and principal place
8 of business in California. Zetta USA executed all of the agreements in California, and
9 Seagrim and Walter executed the directors’ resolutions regarding Zetta PTE’s involvement
10 in the transactions in California. One of the two directors of each of the Zetta BVI Trusts
11 was in California. All of the planes were ultimately based in California.

12 538. Accordingly, California law applies to all of the Trustee’s claims.³⁰

13 539. The Cape Town Convention on International Interests in Mobile Equipment
14 (the “Cape Town Convention”) and the Protocol to the Convention on International Interests
15 in Mobile Equipment on matters specific to aircraft equipment (the “Aircraft Protocol” and,
16 along with the Cape Town Convention, the “Cape Town Treaty”) do not apply to the
17 Trustee’s claims.

18 540. Article VIII of the Aircraft Protocol only allows “parties to an agreement”
19 to “agree on the law which is to govern their contractual rights and obligations[.]” (Official
20 Comment 5.42.) Therefore, “[p]arty choice is limited to contractual rights and obligations.
21 Proprietary rights prospectively affect third parties and rights of creditors on the debtor’s
22 insolvency, and are outside the scope of [Article VIII].” (Official Comment 5.42.)

23 541. Under Article VIII, the choice of law applies only to “their” (meaning the
24 parties’) contractual rights and obligations, not third parties’ rights and obligations.

27 ³⁰ The Fazal-Karim Defendants have already conceded that California law applies to the
28 Trustee’s claims and the Court has ruled that they are “estopped from arguing that any other
jurisdiction’s law applies.” (Dkt. No. 107, at 4 n.3.)

1 542. Neither the Trustee nor the innocent creditors were parties to the relevant
2 agreements.

3 543. Further, contractual rights and obligations do not include proprietary rights,
4 including whether an agreement creates a security interest or a lessor-lessee relationship.

5 544. The Trustee's claims are about proprietary rights and obligations, not
6 contractual rights and obligations.

7 **C. English law supports the Trustee**

8 545. Under English law, the transactions would be characterized as finance
9 leases, not operating leases.

10 546. English law distinguishes between finance leases and operating leases. A
11 finance lease is a lease that is a form of financing and which transfers substantially all the
12 risks and rewards of ownership of an asset to the lessee, whereas an operating lease is one
13 in which the lessor retains the risks and rewards of ownership.

14 547. Further, a finance lease involves payment by a lessee to a lessor of the full
15 cost of the asset together with a return on the finance provided by the lessor. The lessee also
16 is required to capitalize a finance lease on its accounts and would usually treat its liability
17 under a finance lease as "financial indebtedness" for the purposes of compliance with
18 borrowing covenants or limits and in determining compliance with general banking
19 covenants (such as leverage and gearing ratios). [REDACTED]

20 [REDACTED]
21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 548. Here, the Plane 2, 3, and 4 Lease Agreements would be treated as finance
25 leases under English law because the finance leases transferred all of the risks and rewards
26 of ownership to the Debtors. [REDACTED]

27 [REDACTED] The Debtors were
28 obligated to make the payments for the entire term of the finance leases. At the end of the

1 lease term, [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED] The term of the subject leases (7 years) are consistent with them
6 being finance leases only (being typically financing terms of 5-10 years). Operating leases
7 are typically 2-4 years in duration, with no up-front capital payment, no purchase option [REDACTED]
8 [REDACTED] and with the lessor taking the risk and reward with respect to the residual
9 value of the aircraft at the end of the lease term.

10 549. The Defendants retained none of the risks or rewards of ownership. Instead,
11 they would receive the principal and interest payments from the Debtors and thus bore no
12 risk of unprofitable operation of the planes. Similarly, the Defendants would not share in
13 the gains from the profitable operation of the planes and because they had no reversionary
14 interest, they also would not share in any appreciation in value or residual value at the end
15 of the lease term. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED] Such a rent
19 payment structure represents a typical finance lease payment structure. Operating lease
20 structures do not (typically) have any concept of actual or notional principal outstanding
21 under the lease.

22 550. In addition, the loan amounts were recorded on the Debtors' books and
23 records as loans to Zetta PTE and the planes were carried as assets on the Debtors'
24 consolidated balance sheet. Upon information and belief, the Defendants likewise listed the
25 loan amounts as loans on their books and records and likewise did not carry the planes as
26 assets on their balance sheets.

27 551. Thus, under English law, the finance leases would be treated as a finance
28 lease, that is, a form of financial indebtedness, and not an operating lease. Significantly,

1 because English law treats finance leases as a form of financial indebtedness, these types of
2 agreements are subject to equitable relief and statutory powers in English insolvency
3 proceedings and thus do not need to be recharacterized. Instead, English law simply
4 acknowledges that they are financings rather than operating leases.

5 **D. Singapore law also supports the Trustee**

6 552. The 2015 Plane 6 Finance Lease includes a Singapore choice-of-law
7 provision.

8 553. Singapore law also recognizes the distinction between finance leases and
9 operating leases. For example, Section 10D of the Income Tax Act defines finance lease as
10 “a lease of any machinery or plant (including any arrangement or agreement in connection
11 with the lease) which has the effect of transferring substantially the obsolescence, risks or
12 rewards incidental to ownership of such machinery or plant to the lessee” and operating
13 lease as “the leasing of any machinery or plant, other than finance leasing.”

14 554. Under Singapore law, the Court should look objectively at the obligations
15 entered into by the parties, to determine whether “the lessee has substantially all the risks
16 and rewards associated with the ownership of the asset, other than the legal title.” If so, the
17 obligation is a finance lease under Singapore law.

18 555. For the same reasons set forth in the preceding section with respect to
19 English law, the 2015 Plane 6 Finance Lease would be considered a finance lease, and thus
20 a form of financial indebtedness rather than an operating lease. Accordingly, the 2015 Plane
21 6 Finance Lease is a financing rather than a true lease or operating lease under Singapore
22 law.

23
24 **CLAIMS**

25 **COUNT 1**

26 **Against the Fazal-Karim Defendants and Bombardier**
Aiding and Abetting Breach of Fiduciary Duty

27 556. The Trustee re-alleges all paragraphs above.
28

1 557. Cassidy, as a director and officer, owed fiduciary duties of care, loyalty, and
2 good faith to the Debtors.

3 558. By taking the kickbacks and bribes in exchange for inducing the Debtors to
4 purchase the Planes, Cassidy violated his fiduciary duties to the Debtors by knowingly
5 acting against their interests.

6 559. Fazal-Karim, Jetcraft Corp., Jetcoast, Jetcraft Global, Orion, and
7 Bombardier aided and abetted Cassidy's breaches of fiduciary duty and corrupted the
8 fiduciary relationship between Cassidy and the Debtors by directing Jetcraft Global to pay
9 the Kickbacks in transactions involving Jetcraft Corp., Jetcoast, Jetcraft Global, Orion, and
10 Bombardier.

11 560. Bombardier aided and abetted Cassidy's breaches of fiduciary duty and
12 corrupted the fiduciary relationship between Cassidy and the Debtors by giving Cassidy the
13 F1 tickets and offering Cassidy the Sea-Doos as part of a quid pro quo to ensure Cassidy
14 would take delivery of the Planes rather than cancel the transactions, as well as cause the
15 Debtors to enter into additional transactions.

16 561. Fazal-Karim and FK Partners aided and abetted Cassidy's breaches of
17 fiduciary duty and corrupted the fiduciary relationship between Cassidy and the Debtors by
18 giving Cassidy a credit on the amounts that he personally owed on the Nyota as part of a
19 quid pro quo to ensure Cassidy would take delivery of the Planes rather than cancel the
20 transactions, as well as cause the Debtors to enter into additional transactions.

21 562. Cassidy further breached his fiduciary duties to the Debtors by personally
22 entering into a deal to purchase and operate the Nyota with Fazal-Karim, FK Group, and
23 FK Partners, while simultaneously using the Debtors' resources for the venture, including
24 the Debtors' insurance policies and personnel.

25 563. Fazal-Karim, FK Group, and FK Partners aided and abetted Cassidy's
26 breaches of fiduciary duties by entering into the Nyota deal with Cassidy personally while
27 simultaneously knowing that Cassidy was using the Debtors' resources for the venture.
28

1 564. Fazal-Karim individually and each of the other Fazal-Karim Defendants,
2 through Fazal-Karim, and Bombardier, through Fazal-Karim as its agent as well as Yu and
3 Mattar, were aware of Cassidy's breaches of his fiduciary duties because they paid or agreed
4 to pay Cassidy commercial bribes and kickbacks in exchange for his agreement to purchase
5 planes and his agreement not to cancel existing contracts and deliveries.

6 565. Fazal-Karim individually and each of the other Fazal-Karim Defendants,
7 through Fazal-Karim, and Bombardier, through Fazal-Karim as its agent as well as Yu and
8 Mattar, had the specific intent to facilitate Cassidy's wrongful conduct because they paid or
9 agreed to pay Cassidy commercial bribes and kickbacks in exchange for his agreement to
10 purchase planes and his agreement not to cancel existing contracts and deliveries.

11 566. Fazal-Karim individually and each of the other Fazal-Karim Defendants,
12 through Fazal-Karim, and Bombardier, through Fazal-Karim as its agent as well as Yu and
13 Mattar, provided substantial assistance and encouragement to Cassidy's breaches of
14 fiduciary duty because they paid or agreed to pay Cassidy commercial bribes and kickbacks
15 in exchange for his agreement to purchase planes and his agreement not to cancel existing
16 contracts and deliveries.

17 567. The conduct of Fazal-Karim individually and each of the other Fazal-Karim
18 Defendants, through Fazal-Karim, and Bombardier, through Fazal-Karim as its agent as
19 well as Yu and Mattar, was a substantial factor in causing harm to the Debtors because they
20 paid or agreed to pay Cassidy commercial bribes and kickbacks in exchange for his
21 agreement to purchase planes and his agreement not to cancel existing contracts and
22 deliveries.

23 568. As a direct and proximate result of the Defendants' conduct, the Debtors
24 were damaged in an amount to be proven at trial, but at a minimum equal to the amount of
25 the kickbacks and bribes.

26 569. In addition to the amount of the kickbacks and bribes, the Debtors were
27 further damaged by the difference between the amount that the Debtors paid for the Planes
28 and the amounts the Planes were actually worth.

1 indirectly from the proceeds of the loans that Cassidy procured to purchase the Bombardier
2 aircraft as a result of its participation in the conspiracy.

3 577. When they agreed to participate in the conspiracy, each of the Defendants
4 had actual or constructive knowledge of Fazal-Karim's and Bombardier's agreements to
5 pay kickbacks and bribes to Cassidy.

6 578. In exchange for the kickbacks and bribes, Cassidy agreed to enter into
7 transactions on behalf of the Debtors to purchase aircraft from Jetcraft and Bombardier.

8 579. Each of the Defendants committed one or more overt acts in furtherance of
9 the conspiracy by directly or indirectly paying the kickbacks and bribes and entering into
10 the purchase and financing agreements for the aircraft.

11 580. As a direct and proximate result of the Defendants' conduct, the Debtors
12 were damaged in an amount to be proven at trial, but at a minimum equal to the amount of
13 the kickbacks and bribes.

14 581. In addition to the amount of the kickbacks and bribes, the Debtors were
15 further damaged by the difference between the amount that the Debtors paid for the Planes
16 and the amounts the Planes were actually worth.

17 582. In the alternative to damages, the Trustee is entitled to and seeks restitution
18 of the profits that the kickbacks and bribes yielded to the Defendants, in an amount at least
19 equal to the amount of the kickbacks and bribes, plus the revenue that the kickbacks and
20 bribes generated for the Defendants, minus the cost of goods sold and other variable costs
21 incurred in making the relevant sales.

22 **COUNT 3**

23 **Against the Fazal-Karim Defendants and Bombardier**
24 **Cal. Bus. & Prof. Code § 17200 and Cal. Penal Code § 641.3**

25 583. The Trustee re-alleges all paragraphs above.

26 584. Under the California Business & Professions Code §17200, businesses are
27 not permitted to engage in "any unlawful, unfair or fraudulent business act or practice."
28

1 585. The Defendants have each engaged in unlawful business acts practices in
2 violation of Cal. Penal Code § 641.3 and § 182(a)(1, 4).

3 586. Cal. Penal Code § 641.3(a, b) provides: “Any employee who solicits,
4 accepts, or agrees to accept money or any thing of value from a person other than his or her
5 employer, other than in trust for the employer, corruptly and without the knowledge or
6 consent of the employer, in return for using or agreeing to use his or her position for the
7 benefit of that other person, and any person who offers or gives an employee money or any
8 thing of value under those circumstances, is guilty of commercial bribery. This section does
9 not apply where the amount of money or monetary worth of the thing of value is two
10 hundred fifty dollars (\$250) or less.”

11 587. Fazal-Karim directed Jetcraft Corp.’s CFO to pay Cassidy the First and
12 Second Kickbacks from Jetcraft Global and also gave Cassidy the Nyota Credit (through
13 FK Partners) in return for Cassidy using his position to cause the Debtors to enter into the
14 transactions described above and to accept delivery of the Planes.

15 588. Bombardier gave Cassidy things of value, including the F1 Tickets, and
16 offered Cassidy things of value, including the Sea-Doos, in return for Cassidy using his
17 position to cause the Debtors to enter into the transactions described above and to accept
18 delivery of the Planes.

19 589. Jetcraft Global at the direction of Fazal-Karim gave Cassidy the First and
20 Second Kickbacks and FK Partners at the direction of Fazal-Karim gave Cassidy the Nyota
21 Credit in return for Cassidy using his position to cause the Debtors to enter into the
22 transactions described above and to accept delivery of the Planes.

23 590. The monetary worth of the First and Second Kickbacks, the Nyota Credit,
24 the F1 Tickets, and the Sea-Doos, separately or in aggregate, is more than \$250.

25 591. Cal. Penal Code § 182(a)(1, 4) makes it illegal for two or more persons to
26 “conspire . . . to commit any crime” or “[t]o cheat and defraud any person of any property,
27 by any means which are in themselves criminal, or to obtain money or property by false
28 pretenses or by false promises with fraudulent intent not to perform those promises.”

1 592. Fazal-Karim, Jetcraft Corp., Jetcoast, Jetcraft Global, Orion, and
2 Bombardier conspired together to give Cassidy kickbacks and bribes in exchange for
3 Cassidy using his position to cause the Debtors to enter into the transactions described above
4 and to accept delivery of the Planes under false pretenses, namely that they had not offered
5 or given Cassidy the bribes and kickbacks.

6 593. These Defendants each engaged in unfair business practices, including by
7 providing the kickbacks and bribes to Cassidy and by concealing and failing to disclose the
8 kickbacks and bribes to the Debtors' uninterested directors and management.

9 594. The Defendants have engaged in fraudulent conduct, including by
10 misrepresenting, concealing, and failing to disclose the kickbacks and bribes as described
11 in Counts 6-7 below.

12 595. The Defendants used these acts of unlawful, unfair, and fraudulent conduct
13 to their advantage, and to the Debtors' detriment, and unfairly benefitted as a result of these
14 acts. These unlawful, fraudulent, and anti-competitive acts directly resulted in financial
15 losses to the Debtors, which ultimately resulted in their bankruptcy.

16 596. As a direct and proximate result of the Defendants' conduct alleged above,
17 the Debtors suffered an economic injury caused by the violations described herein. The
18 Debtors are therefore entitled to restitution in the amount to be determined at trial.

19 597. In addition to direct liability for their participation in the unlawful, unfair,
20 and fraudulent conduct described above, the Fazal-Karim Defendants are also liable because
21 they are alter egos of Fazal-Karim and each other as set forth in paragraphs 368-386 above.

22 598. In addition to direct liability for their participation in the unlawful, unfair,
23 and fraudulent conduct described above, BI and BAC are also liable for the actions of Fazal-
24 Karim, who was their agent as set forth in paragraphs 387-399 above.

25 **COUNT 4**
26 **Intentionally Omitted**

27 **COUNT 5**
28 **Intentionally Omitted**

COUNT 6
Against the Fazal-Karim Defendants and Bombardier
Fraudulent Misrepresentation

599. The Trustee re-alleges all paragraphs above.

600. Fazal-Karim, Jetcraft Corp. Jetcraft Global, and Orion made representations as to a past or existing material fact, specifically that the two \$500,000 payments to Cassidy, the First and Second Kickbacks, were made in return for “services.”

601. With respect to Plane 1, on or about March 2, 2016, Fazal-Karim indicated in an email to Behrend that he would ask Cassidy for an invoice in the amount of \$500,000 to cover up the First Kickback. Cassidy sent Fazal-Karim a falsified invoice on March 4, 2016, to Jetcraft Global for “Support Services.”

602. Cassidy provided no legitimate “Support Services” in connection with Plane 1. Fazal-Karim, Jetcraft Corp., Jetcoast, and Jetcraft Global were aware that Cassidy provided no services related to Plane 1, and that he deserved no remuneration from Jetcraft Global or any other entity for the sale of Plane 1. Indeed, Jetcraft Global had no role at all in the First Element Transaction.

603. With respect to Plane 10, on November 22, 2016, Fazal-Karim directed Behrend to ask Cassidy to falsify an invoice for “services” in the amount of \$500,000 to cover up the Second Kickback. Cassidy sent Behrend a falsified invoice on November 22, 2016, to Orion for “services.” On February 10, 2017, Fazal-Karim asked Cassidy to send a revised invoice at \$750,000 for “our files.” Fazal-Karim also offered to give Cassidy the remaining \$250,000 if Cassidy got the Debtors to pay the remaining \$250,000. On February 13, 2017, Cassidy sent Behrend a revised invoice to Orion for “services” with the same November 22, 2016, date and invoice number, but revised to be for \$750,000.

604. Cassidy provided no legitimate “services” in connection with Plane 10. Fazal-Karim, Jetcraft Corp., Jetcoast, and Jetcraft Global were aware that Cassidy provided no services related to Plane 10, and that he deserved no remuneration from Jetcraft Global or any other entity for the sale of Plane 10.

1 605. Fazal-Karim, Jetcraft Corp., Jetcraft Global, Jetcoast, and Orion made
2 representations as to a past or existing material fact, specifically that the prices in the First
3 and Second Element Transactions did not include the amounts of the First and Second
4 Kickbacks.

5 606. The purchase prices of Planes 1 and 10 included the amount of the First and
6 Second Kickbacks at the time the Plane 1 and Plane 10 APAs were executed. If these
7 defendants had not included the amounts of the First and Second Kickbacks in the purchase
8 prices, the purchase prices would have been decreased by at least \$500,000 for each plane.

9 607. Fazal-Karim, Jetcraft Corp., Jetcraft Global, Jetcoast, and Orion made
10 representations as to a past or existing material fact, specifically that the First and Second
11 Element Transactions did not include any outside commissions.

12 608. Both the Plane 1 and Plane 10 APAs [REDACTED]
13 [REDACTED] Section 12.2.6 of each APA includes a representation and warranty that

14 [REDACTED]
15 [REDACTED]
16 609. These representations were false when made. Jetcraft Global at Fazal-
17 Karim's direction paid Cassidy undisclosed kickbacks to induce him to cause the Debtors
18 to enter into and guarantee the First and Second Element Transactions. These fraudulent
19 kickbacks also induced Cassidy to enter into each of the other transactions, for which Fazal-
20 Karim received millions in commissions, Jetcraft Corp., Jetcraft Global, Jetcoast, and Orion
21 received tens of millions in transfers, and Bombardier received hundreds of millions in sales
22 and transfers. The kickbacks also induced Cassidy to cause the Debtors to accept delivery
23 of each of the Planes, which ensured that Bombardier would receive the entire amounts of
24 the purchase price rather than liquidated damages.

25 610. Fazal-Karim was acting as Bombardier's agent when he directed Jetcraft
26 Corp.'s CFO to pay the First Kickback through Jetcraft Global as part of a single combined
27 set of transactions including Planes 1-6. Bombardier also had a profits interest on the resale
28 of Plane 1 to the Debtors.

1 611. Jetcraft Corp. and Jetcoast executed the Plane 1 APA on December 5, 2015,
2 while Jetcraft Global and Orion executed the Plane 10 APA on August 30, 2016. Fazal-
3 Karim negotiated the Plane 1 and Plane 10 APAs on behalf of Jetcraft Corp., Jetcoast,
4 Jetcraft Global, and Orion.

5 612. Jetcraft Corp., Jetcraft Global, Jetcoast, Orion, and Fazal-Karim knew that
6 these representations were false when made. The representations were meant to hide the
7 fact that Cassidy would receive kickbacks. Because the First and Second Kickbacks were
8 included in the price of Planes 1 and 10, respectively, Fazal-Karim, Jetcraft Corp., Jetcraft
9 Global, Jetcoast, and Orion had already agreed to pay the First and Second Kickbacks at the
10 time that the APAs were executed. Further, because Jetcraft Corp., Jetcraft Global, Jetcoast,
11 and Orion knew that Cassidy was receiving kickbacks disguised as commissions, they knew
12 the kickbacks were not “outside commissions” and had no legitimate purpose.

13 613. Jetcraft Corp., Jetcraft Global, Jetcoast, Orion, and Fazal-Karim made these
14 representations with an intent to defraud the Debtors.

15 614. Jetcraft Corp., Jetcoast, and Fazal-Karim specifically intended that Seagrim
16 and Walter would rely on the representations in entering into the Plane 1 APA and related
17 agreements. At the time of the transaction, Zetta PTE had only four directors and could not
18 have entered into the transaction without the approval of Seagrim and Walter.

19 615. Jetcraft Global, Orion, and Fazal-Karim specifically intended that Seagrim,
20 Walter, and Li would rely on the representations in entering into the Plane 10 APA and
21 related agreements. At the time of the transaction, Zetta PTE could not have entered into
22 the transaction without the approval of Seagrim, Walter, and Li.

23 616. The Debtors’ uninterested directors and management were unaware of the
24 falsity of the representations.

25 617. The Debtors’ uninterested directors and management reasonably relied on
26 these misrepresentations.

27 618. It was reasonable for the Debtors’ uninterested directors and management to
28 be unaware of the kickbacks and bribes. The Debtors’ uninterested directors and

1 management were not aware of the kickbacks and bribes because Cassidy received the
2 kickbacks to his personal bank account and received the bribes directly.

3 619. As a direct and proximate result of the Defendants' conduct, the Debtors
4 were damaged in an amount to be proven at trial, but at a minimum equal to the amount of
5 the kickbacks and bribes.

6 620. In addition to the amount of the kickbacks and bribes, the Debtors were
7 further damaged by the difference between the amount that the Debtors paid for the Planes
8 and the amounts the Planes were actually worth.

9 621. In the alternative to damages, the Trustee is entitled to and seeks restitution
10 of the profits that the kickbacks and bribes yielded to the Defendants, in an amount at least
11 equal to the amount of the kickbacks and bribes, plus the revenue that the kickbacks and
12 bribes generated for the Defendants, minus the cost of goods sold and other variable costs
13 incurred in making the relevant sales.

14 622. In addition to direct liability for their fraudulent misrepresentations and
15 omissions described above, the Fazal-Karim Defendants are also liable because they are
16 alter egos of Fazal-Karim and each other as set forth in paragraphs 368-386 above.

17 623. BI and BAC are also liable for the actions of Fazal-Karim, who was their
18 agent as set forth in paragraphs 387-399 above.

19 **COUNT 7**
20 **Against the Fazal-Karim Defendants and Bombardier**
21 **Fraudulent Concealment / Nondisclosure**

22 624. The Trustee re-alleges all paragraphs above.

23 625. The Fazal-Karim Defendants and Bombardier concealed a material fact from
24 the Debtors, specifically that they paid Cassidy kickbacks and bribes so he would induce
25 the Debtors to acquire aircraft from the Fazal-Karim Defendants and Bombardier.

26 626. Jetcraft Corp. (through Jetcraft Global) at Fazal-Karim's direction paid
27 Cassidy undisclosed kickbacks to induce him to cause the Debtors to enter into and
28 guarantee the First and Second Element Transactions. These fraudulent kickbacks also
induced Cassidy to enter into each of the other transactions, for which Fazal-Karim received

1 millions in commissions, Jetcraft Corp., Jetcraft Global, Jetcoast, and Orion received tens
2 of millions in transfers, and Bombardier received hundreds of millions in sales and transfers.
3 The kickbacks also induced Cassidy to cause the Debtors to accept delivery of each of the
4 Planes, which ensured that Bombardier would receive the entire amounts of the purchase
5 price rather than liquidated damages.

6 627. Fazal-Karim was acting as Bombardier's agent when he directed Jetcraft
7 Corp. (through Jetcraft Global) to pay the First Kickback as part of a single combined set
8 of transactions including Planes 1-6. Bombardier also had a profits interest on the resale of
9 Plane 1 to the Debtors.

10 628. Bombardier also paid a \$43,890 bribe to Cassidy and agreed to pay a \$42,569
11 bribe that Fazal-Karim later paid, to ensure that the Debtors would take delivery of Planes
12 2-4 and 8-9, rather than terminate those agreements, so that Bombardier would receive more
13 than [REDACTED] in additional payments rather than have to refund more than [REDACTED]
14 in prepayments, as well as enter into additional agreements to purchase Planes 12-15, which
15 Bombardier valued at [REDACTED].

16 629. Because the First and Second Kickbacks were included in the price of Planes
17 1 and 10, respectively, Fazal-Karim, Jetcraft Corp., Jetcraft Global, Jetcoast, and Orion had
18 already agreed to pay the First and Second Kickbacks at the time that the APAs were
19 executed.

20 630. The Defendants had a duty to disclose the kickbacks and bribes because they
21 knew that the kickbacks and bribes were neither known nor readily accessible to the
22 Debtors' uninterested directors and management.

23 631. The Defendants actively concealed the material facts that they were paying
24 Cassidy kickbacks and bribes to enter into the transactions and to ensure that the Debtors
25 would take delivery of the Planes.

26 632. The Defendants exclusively knew the material facts that they were paying
27 Cassidy kickbacks and bribes to enter into the transactions and to ensure that the Debtors
28 would take delivery of the Planes.

1 633. The Defendants intentionally concealed or suppressed the kickbacks and
2 bribes with the intent to defraud the Debtors.

3 634. The Debtors' uninterested directors and management were unaware of these
4 facts and would not have entered into the transactions or accepted delivery of the Planes if
5 they had known the concealed or suppressed facts.

6 635. Because Cassidy received the kickbacks to his personal bank account and
7 received the bribes directly, it was reasonable for the Debtors' uninterested directors and
8 management to be unaware of the kickbacks and bribes.

9 636. As a direct and proximate result of the Defendants' conduct, the Debtors
10 were damaged in an amount to be proven at trial, but at a minimum equal to the amount of
11 the kickbacks and bribes.

12 637. In addition to the amount of the kickbacks and bribes, the Debtors were
13 further damaged by the difference between the amount that the Debtors paid for the Planes
14 and the amounts the Planes were actually worth.

15 638. In the alternative to damages, the Trustee is entitled to and seeks restitution
16 of the profits that the kickbacks and bribes yielded to the Defendants, in an amount at least
17 equal to the amount of the kickbacks and bribes, plus the revenue that the kickbacks and
18 bribes generated for the Defendants, minus the cost of goods sold and other variable costs
19 incurred in making the relevant sales.

20 639. In addition to direct liability for their fraudulent misrepresentations and
21 omissions described above, the Fazal-Karim Defendants are also liable because they are
22 alter egos of Fazal-Karim and each other as set forth in paragraphs 368-386 above.

23 640. In addition to direct liability for their fraudulent misrepresentations and
24 omissions described above, BI and BAC are also liable for the actions of Fazal-Karim, who
25 was their agent as set forth in paragraphs 387-399 above.

26
27 **COUNT 8**
28 **Against Jetcraft Corp. and Jetcoast**
 Avoidance and Recovery of Actual Intent Fraudulent Transfers (Plane 1)

11 U.S.C. §§ 548, 550

641. The Trustee re-alleges all paragraphs above.

642. On December 5, 2015, Zetta PTE entered into an aircraft purchase agreement (the “Plane 1 APA”) to purchase Plane 1 from Jetcraft Corp., Jetcoast, and the Bank of Utah. In addition, to finance the purchase of Plane 1, ECN made a loan to Zetta PTE pursuant to a loan agreement (the “Plane 1 Loan Agreement”).

643. As part of the First Element Transaction, the Debtors made transfers to or for the benefit of Jetcraft Corp. and Jetcoast consisting of \$37.8 million in loan proceeds to Jetcoast from Element at Zetta PTE’s direction, \$4.555 million from Zetta PTE to Jetcraft Corp., and \$1 million from Zetta USA to Jetcraft Corp., as set forth on Schedule 2.

644. As described in paragraphs 400-430, Cassidy was operating the Debtors as a fraudulent scheme or Ponzi-like scheme, or both, to enrich himself at the expense of creditors, and thus had the actual intent to delay, hinder or defraud creditors.

645. In the alternative, as described in paragraphs 431-447, Cassidy believed at the time of each aircraft transaction that the consequences of his actions were substantially certain to hinder, delay, or defraud the Debtors’ creditors, and Cassidy should have seen this result as a natural consequence of his actions. Cassidy knew at the time he entered into and closed on the transactions and at the time of each of the transfers that the transactions would waste the financial resources of the Debtors to the detriment of creditors; that there was no economic justification for the transactions because there was no realistic possibility that the transactions would ever be profitable for the Debtors and thus would ultimately harm creditors; and that the transactions were undertaken to enrich himself at the expense of creditors.

646. In the alternative, as described in paragraphs 448-464, the badges of fraud are present in this transaction. In addition, as set forth above, Cassidy failed to disclose that he caused the Debtors and their subsidiaries to enter into and close on the Plane 1 APA and Plane 1 Loan Agreement (as well as the transactions involving the CAVIC Planes and Plane 6) in exchange for the kickbacks he received from Fazal-Karim and Jetcraft Global; the

1 transfers combined with the simultaneously negotiated transfers for other Planes involved
2 all or substantially all of the Debtors' assets at the time; Cassidy removed or concealed
3 assets in the form of the kickbacks; the Debtors did not receive reasonably equivalent value;
4 the initial payments on Plane 1 alone would make the Debtors insolvent; the transfers
5 occurred shortly after the Debtors incurred substantial debt; and Cassidy had a special
6 relationship with Fazal-Karim, Jetcraft Corp., and Bombardier.

7 647. These transfers were made less than two years before the Petition Date.

8 648. These transfers were transfers of Zetta PTE's property.

9 649. Pursuant to 11 U.S.C. § 548(a)(1), the Trustee is entitled to and therefore
10 seeks to avoid the Plane 1 APA and Plane 1 Loan Agreement and any obligations arising
11 from those agreements, as well as the agreements relating to Plane 1 listed on Schedule 2.

12 650. Because these obligations are avoidable under 11 U.S.C. § 548(a)(1)(A), the
13 Trustee is entitled to and therefore seeks to recover the value of the transfers made on
14 account of the obligations under Plane 1 APA and Plane 1 Loan Agreement pursuant to 11
15 U.S.C. § 550(a).

16 651. Pursuant to 11 U.S.C. § 550(a), the Trustee is entitled to and therefore seeks
17 to recover the value of these transfers from Jetcraft Corp. and Jetcoast as the initial
18 transferee or the transferee for whose benefit the transfer was made, pursuant to 11 U.S.C.
19 § 550(a).

20
21 **COUNT 9**
22 **Against Jetcraft Corp. and Jetcoast**
23 **Avoidance and Recovery of Constructive Fraudulent Transfer (Plane 1)**
11 U.S.C. §§ 548, 550

24 652. The Trustee re-alleges all paragraphs above.

25 653. On December 5, 2015, Zetta PTE entered into the Plane 1 APA to purchase
26 Plane 1 from Jetcraft Corp., Jetcoast, and the Bank of Utah. In addition, to finance the
27 purchase of Plane 1, ECN made a loan to Zetta PTE pursuant to the Plane 1 Loan
28 Agreement.

1 654. As part of the First Element Transaction, the Debtors made transfers to or
2 for the benefit of Jetcraft Corp. and Jetcoast consisting of \$37.8 million in loan proceeds to
3 Jetcoast from Element at Zetta PTE's direction, \$4.555 million from Zetta PTE to Jetcraft
4 Corp., and \$1 million from Zetta USA to Jetcraft Corp., as set forth on Schedule 2. Zetta
5 PTE also made payments to or for the benefit of Element Aviation of at least
6 \$11,897,094.26, as set forth on Schedule 3.

7 655. Zetta PTE did not receive reasonably equivalent value for the obligations it
8 incurred in entering into the Plane 1 APA and Plane 1 Loan Agreement because, from the
9 perspective of the Debtors' estates, Plane 1 was not able to generate income sufficient to
10 equal the purchase price or the debt service on it.

11 656. Further, as set forth above in paragraphs 341-360 and 465-466, the purchase
12 price of Plane 1 was significantly higher than its Fair Market Value and Estate Value.

13 657. At the time Zetta PTE made these transfers, as set forth above in paragraphs
14 467-484, the Debtors were insolvent or became insolvent as a result of the transfers, were
15 engaged in business or about to engage in business for which their remaining property was
16 unreasonably small capital, or intended to incur, or believed that they would incur, debts
17 that were beyond their ability to pay as such debts matured.

18 658. These transfers were made less than two years before the Petition Date.

19 659. These transfers were transfers of Zetta PTE's property.

20 660. Pursuant to 11 U.S.C. § 548(a)(1)(B), the Trustee is entitled to and therefore
21 seeks to avoid the Plane 1 APA and Plane 1 Loan Agreement and any obligations arising
22 from those agreements, as well as the agreements relating to Plane 1 listed on Schedule 2.

23 661. Pursuant to 11 U.S.C. § 548(a)(1)(B), the Trustee is entitled to and therefore
24 seeks to avoid the Plane 10 APA and Plane 10 Loan Agreement and any transfers made
25 under those agreements, as well as the agreements relating to Plane 10 listed on Schedule
26 2.

27 662. Pursuant to 11 U.S.C. § 550(a), the Trustee is entitled to and therefore seeks
28 to recover the value of these transfers from Jetcraft Corp. and Jetcoast, as the initial

1 transferee or the transferee for whose benefit the transfer was made, pursuant to 11 U.S.C.
2 § 550(a).

3 **COUNT 10**
4 **Against Jetcraft Global and Orion**
5 **Avoidance and Recovery of Actual Intent Fraudulent Transfers (Plane 10)**
6 **11 U.S.C. §§ 548, 550**

6 663. The Trustee re-alleges all paragraphs above.

7 664. On August 30, 2016, Zetta Jet 6000-1 entered into the Plane 10 APA to
8 purchase Plane 10 from Orion, Jetcraft Global, and the Bank of Utah. In addition, to finance
9 the purchase of Plane 10, ECN made a loan to Zetta PTE pursuant to the Plane 10 Loan
10 Agreement.

11 665. As part of the Second Element Transaction, the Debtors made transfers to or
12 for the benefit of Jetcraft Global and Orion consisting of \$49.5 million in loan proceeds to
13 Orion from Element at Zetta PTE's direction, as set forth on Schedule 5.

14 666. As described in paragraphs 400-430, Cassidy was operating the Debtors as
15 a fraudulent scheme or Ponzi-like scheme, or both, to enrich himself at the expense of
16 creditors, and thus had the actual intent to delay, hinder or defraud creditors.

17 667. In the alternative, as described in paragraphs 431-447, Cassidy believed at
18 the time of each aircraft transaction that the consequences of his actions were substantially
19 certain to hinder, delay, or defraud the Debtors' creditors, and Cassidy should have seen
20 this result as a natural consequence of his actions. Cassidy knew at the time he entered into
21 and closed on the transactions and at the time of each of the transfers that the transactions
22 would waste the financial resources of the Debtors to the detriment of creditors; that there
23 was no economic justification for the transactions because there was no realistic possibility
24 that the transactions would ever be profitable for the Debtors and thus would ultimately
25 harm creditors; and that the transactions were undertaken to enrich himself at the expense
26 of creditors.

27 668. In the alternative, as described in paragraphs 448-464, the badges of fraud
28 are present in this transaction. In addition, as set forth above, Cassidy failed to disclose that

1 he caused the Debtors and their subsidiaries to enter into and close on the Plane 10 APA
2 and Plane 10 Loan Agreement in exchange for the kickbacks he received from Fazal-Karim
3 and Jetcraft Global; the transfers combined with the simultaneously negotiated transfers for
4 other Planes involved all or substantially all of the Debtors' assets at the time; Cassidy
5 removed or concealed assets in the form of the kickbacks; the Debtors did not receive
6 reasonably equivalent value; the initial payments on Plane 1 alone would make the Debtors
7 insolvent; the transfers occurred shortly after the Debtors incurred substantial debt; and
8 Cassidy had a special relationship with Fazal-Karim, Jetcraft, and Bombardier.

9 669. These transfers were made less than two years before the Petition Date.

10 670. These transfers were transfers of Zetta PTE's property.

11 671. Pursuant to 11 U.S.C. § 548(a)(1), the Trustee is entitled to and therefore
12 seeks to avoid the Plane 10 APA and Plane 10 Loan Agreement and any obligations arising
13 from those agreements, as well as the agreements relating to Plane 10 listed on Schedule 5.

14 672. Because these obligations are avoidable under 11 U.S.C. § 548(a)(1)(A), the
15 Trustee is entitled to and therefore seeks to recover the value of the transfers made on
16 account of the obligations under Plane 10 APA and Plane 10 Loan Agreement pursuant to
17 11 U.S.C. § 550(a).

18 673. Pursuant to 11 U.S.C. § 550(a), the Trustee is entitled to and therefore seeks
19 to recover the value of these transfers from Jetcraft Global and Orion as the initial transferee
20 or the transferee for whose benefit the transfer was made, pursuant to 11 U.S.C. § 550(a).

21 **COUNT 11**
22 **Against Jetcraft Global and Orion**
23 **Avoidance and Recovery of Constructive Fraudulent Transfer (Plane 10)**
11 U.S.C. §§ 548, 550

24 674. The Trustee re-alleges all paragraphs above.

25 675. On August 30, 2016, Zetta Jet 6000-1 entered into an aircraft purchase
26 agreement (the "Plane 10 APA") to purchase Plane 10 from Orion, Jetcraft Global, and the
27 Bank of Utah. In addition, to finance the purchase of Plane 10, ECN made a loan to Zetta
28 PTE pursuant to a loan agreement (the "Plane 10 Loan Agreement").

1 685. On December 10, 2015, Zetta PTE entered into the Plane 2-5 APAs with
2 Bombardier for the CAVIC Aircraft.

3 686. Zetta PTE made transfers from Zetta PTE bank accounts to BAC for the
4 CAVIC Aircraft, including \$1 million (\$250,000 for each Plane) on December 4, 2015; \$10
5 million on February 16, 2016; \$10 million on March 8, 2016; \$1.2 million on March 28,
6 2016; \$2.4 million on or about June 30, 2016 (which were originally made in connection
7 with Planes 8 and 9 but later transferred to Plane 4 on March 24, 2017); \$3,091,334 on
8 March 28, 2017; and \$3,262,834 on June 27, 2017.

9 687. As described in paragraphs 400-430, Cassidy was operating the Debtors as
10 a fraudulent scheme or Ponzi-like scheme, or both, to enrich himself at the expense of
11 creditors, and thus had the actual intent to delay, hinder or defraud creditors.

12 688. In the alternative, as described in paragraphs 431-447, Cassidy believed at
13 the time of each aircraft transaction that the consequences of his actions were substantially
14 certain to hinder, delay, or defraud the Debtors' creditors, and Cassidy should have seen
15 this result as a natural consequence of his actions. Cassidy knew at the time he entered into
16 and closed on the transactions and at the time of each of the transfers that the transactions
17 would waste the financial resources of the Debtors to the detriment of creditors; that there
18 was no economic justification for the transactions because there was no realistic possibility
19 that the transactions would ever be profitable for the Debtors and thus would ultimately
20 harm creditors; and that the transactions were undertaken to enrich himself at the expense
21 of creditors.

22 689. In the alternative, as described in paragraphs 448-464, the badges of fraud
23 are present in this transaction. In addition, as set forth above, Cassidy failed to disclose that
24 he caused the Debtors and their subsidiaries to enter into the Plane 2-5 APAs in exchange
25 for the kickbacks he received from Fazal-Karim and Jetcraft Global as part of the same
26 transactions involving Plane 1, the CAVIC Planes, and Plane 6; the transfers combined with
27 the simultaneously negotiated transfers for other Planes involved all or substantially all of
28 the Debtors' assets at the time; Cassidy removed or concealed assets in the form of the

1 kickbacks; the Debtors did not receive reasonably equivalent value; the \$1 million in initial
2 deposits as part of the combined transaction would make the Debtors insolvent; the transfers
3 occurred shortly before or after the Debtors incurred substantial debt; and Cassidy had a
4 special relationship with Fazal-Karim, Jetcraft, and Bombardier.

5 690. These transfers were made less than two years before the Petition Date.

6 691. These transfers were transfers of Zetta PTE's property.

7 692. Pursuant to 11 U.S.C. § 548(a)(1), the Trustee is entitled to and therefore
8 seeks to avoid the Plane 2-5 APAs and any obligations arising from those agreements.

9 693. Because these obligations are avoidable under 11 U.S.C. § 548(a)(1)(A), the
10 Trustee is entitled to and therefore seeks to recover the value of the transfers made on
11 account of the obligations under the Plane 2-5 APAs pursuant to 11 U.S.C. § 550(a).

12 694. Pursuant to 11 U.S.C. § 550(a), the Trustee is entitled to and therefore seeks
13 to recover the value of these transfers from Bombardier, as the initial transferee or the
14 transferee for whose benefit the transfer was made, pursuant to 11 U.S.C. § 550(a).

15 695. Because the transfers at issue in this Count were made from Debtor bank
16 accounts with Debtor funds, this Count does not require recharacterization of any
17 agreements for the Trustee to avoid these transactions and obligations and recover the value
18 of the transfers.

19 **COUNT 13**
20 **Against Bombardier**
21 **Avoidance and Recovery of Constructive Fraudulent Transfers (Planes 2-5)**
22 **11 U.S.C. §§ 548, 550**

23 696. The Trustee re-alleges all paragraphs above.

24 697. On December 10, 2015, Zetta PTE entered into the Plane 2-5 APAs with
25 Bombardier for the CAVIC Aircraft.

26 698. Zetta PTE made transfers from Zetta PTE bank accounts to BAC for the
27 CAVIC Aircraft, including \$1 million (\$250,000 for each Plane) on December 4, 2015; \$10
28 million on February 16, 2016; \$10 million on March 8, 2016; \$1.2 million on March 28,
2016; \$2.4 million on or about June 30, 2016 (which were originally made in connection

1 with Planes 8 and 9 but later transferred to Plane 4 on March 24, 2017); \$3,091,334 on
2 March 28, 2017; and \$3,262,834 on June 27, 2017.

3 699. Zetta PTE did not receive reasonably equivalent value for the transfers made
4 under the Plane 2-5 APAs because, from the perspective of the Debtors' estates, Planes 2-
5 5 were not able to generate income sufficient to equal the purchase price or the debt service
6 on them.

7 700. Further, as set forth above in paragraphs 341-360 and 465-466, the purchase
8 price of Planes 2-5 were significantly higher than the market prices.

9 701. At the time Zetta PTE made these transfers, as set forth above in paragraphs
10 467-484, the Debtors were insolvent or became insolvent as a result of the transfers, were
11 engaged in business or about to engage in business for which their remaining property was
12 unreasonably small capital, or intended to incur, or believed that they would incur, debts
13 that were beyond their ability to pay as such debts matured.

14 702. These transfers were made less than two years before the Petition Date.

15 703. These transfers were transfers of Zetta PTE's property.

16 704. Pursuant to 11 U.S.C. § 548(a)(1)(B), the Trustee is entitled to and therefore
17 seeks to avoid the transfers made under the Plane 2-5 APAs.

18 705. Pursuant to 11 U.S.C. § 550(a), the Trustee is entitled to and therefore seeks
19 to recover the value of these transfers from Bombardier, as the initial transferee or the
20 transferee for whose benefit the transfer was made, pursuant to 11 U.S.C. § 550(a).

21 706. Because the transfers at issue in this Count were made from Debtor bank
22 accounts with Debtor funds, this Count does not require recharacterization of any
23 agreements for the Trustee to avoid these transactions and obligations and recover the value
24 of the transfers.

25 **COUNT 14**
26 **Against Bombardier**
27 **Avoidance and Recovery of Actual Intent Fraudulent Transfers (Planes 2-5)**
28 **11 U.S.C. §§ 548, 550**

707. The Trustee re-alleges all paragraphs above.

1 708. On December 10, 2015, Zetta PTE entered into the Plane 2-5 APAs with
2 Bombardier for the CAVIC Aircraft.

3 709. On or around May 24, 2016, the Debtors (through TVPX as owner trustee)
4 entered into the Plane 2 Finance Lease with CAVIC (through the ZJ6000-1 ST).

5 710. On or around September 16, 2016, the Debtors (through TVPX as owner
6 trustee) entered into the Plane 3 Finance Lease with CAVIC (through the ZJ6000-2 ST).

7 711. On or around December 23, 2016, the Debtors (through TVPX as owner
8 trustee) entered into the Plane 4 Finance Lease with CAVIC (through the ZJ6000-3 ST).

9 712. TVPX, not in its individual capacity but solely as owner trustee, is a party to
10 the Plane 2, Plane 3, and Plane 4 Finance Leases as lessee. At all relevant times, the Debtors
11 rather than TVPX were the real parties in interest on the Plane 2, Plane 3, and Plane 4
12 Finance Leases.

13 713. The CAVIC Statutory Trusts are parties to the Plane 2, Plane 3, and Plane 4
14 Finance Leases as lessors. At all times, CAVIC was the real party in interest on the Plane
15 2, Plane 3, and Plane 4 Finance Leases.

16 714. The Plane 2, Plane 3, and Plane 4 Finance Leases are not true leases or
17 operating leases, but finance leases that create a security interest both per se and under the
18 economic realities test.³¹

19 715. A per se security interest is created if (a) the consideration that the lessee is
20 to pay the lessor for the right to possession and use of the goods is an obligation for the term
21 of the lease and is not subject to termination by the lessee and (b) the lessee has an option
22 to become the owner of the goods for no additional consideration or for nominal additional
23 consideration upon compliance with the lease agreement. Under the economic realities test,
24

25 ³¹ The Trustee sought a declaratory judgment recharacterizing the Plane 2, Plane 3, and
26 Plane 4 Finance Leases as finance leases, rather than true leases, in Count I of the original
27 complaint in *King v. CAVIC*, AP No. 2:19-ap-1147-SK (“CAVIC”), filed on May 21, 2019.
28 The Trustee continues to seek a declaratory judgment recharacterizing the Plane 2, Plane 3,
and Plane 4 Finance Leases as finance leases, rather than true leases, in Count I of the
amended CAVIC complaint.

1 a lease creates a security interest if the economic substance of the transaction indicates that
2 the arrangements were not true or operating leases, but rather finance leases.

3 716. First, the per se test is satisfied here. [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

7 As a result, the Plane 2, Plane 3, and Plane 4 Finance Leases constituted finance leases between
8 CAVIC and the Debtors, and therefore created a per se security interest in Planes 2, 3, and
9 4for the Debtors.

10 717. Second, the economic realities test is satisfied here. CAVIC did not retain
11 any entrepreneurial risk under the Plane 2, Plane 3, and Plane 4 Finance Leases and, [REDACTED]
12 [REDACTED]

13 [REDACTED] CAVIC did not expect to retain the property at the end of the lease term.
14 CAVIC's only expectation was to receive payments of principal and interest during the
15 course of the alleged "lease." The Debtors were at all times the actual economic owners of
16 Planes 2, 3, and 4, bearing the risks and benefits of that ownership both before and after the
17 acquisition of Planes 2, 3, and 4.

18 718. Under either US or English law, the Debtors, not CAVIC, were the true
19 economic owners of Planes 2, 3, and 4 and had the sole residual equity interest in Planes 2,
20 3, and 4 following payment of the "rent" through the terms of the Plane 2, Plane 3, and
21 Plane 4 Finance Leases.

22 719. Accordingly, under either the per se test or the economic realities test, the
23 Court should declare that the Plane 2, Plane 3, and Plane 4 Finance Leases should be
24 recharacterized as secured financings under US or English law, not as true or operating
25 leases, and that the Plane 2, Plane 3, and Plane 4 Finance Leases vested the Debtors with an
26 economic ownership interest in Planes 2, 3, and 4 for the purposes of the Trustee's claims
27 under section 105(a), 548, and 550 of the Bankruptcy Code.
28

1 720. The Debtors made transfers to BAC consisting of a total of \$120.36 million
2 in loan proceeds from CAVIC on behalf of the Debtors.

3 721. As described in paragraphs 400-430, Cassidy was operating the Debtors as
4 a fraudulent scheme or Ponzi-like scheme, or both, to enrich himself at the expense of
5 creditors, and thus had the actual intent to delay, hinder or defraud creditors.

6 722. In the alternative, as described in paragraphs 431-447, Cassidy believed at
7 the time of each aircraft transaction that the consequences of his actions were substantially
8 certain to hinder, delay, or defraud the Debtors' creditors, and Cassidy should have seen
9 this result as a natural consequence of his actions. Cassidy knew at the time he entered into
10 and closed on the transactions and at the time of each of the transfers that the transactions
11 would waste the financial resources of the Debtors to the detriment of creditors; that there
12 was no economic justification for the transactions because there was no realistic possibility
13 that the transactions would ever be profitable for the Debtors and thus would ultimately
14 harm creditors; and that the transactions were undertaken to enrich himself at the expense
15 of creditors.

16 723. In the alternative, as described in paragraphs 448-464, the badges of fraud
17 are present in this transaction. In addition, as set forth above, Cassidy failed to disclose that
18 he caused the Debtors and their subsidiaries to enter into the Plane 2-5 APAs in exchange
19 for the kickbacks he received from Fazal-Karim and Jetcraft Global as part of the same
20 transactions involving Plane 1, the CAVIC Planes, and Plane 6; the transfers combined with
21 the simultaneously negotiated transfers for other Planes involved all or substantially all of
22 the Debtors' assets at the time; Cassidy removed or concealed assets in the form of the
23 kickbacks; the Debtors did not receive reasonably equivalent value; the \$1 million in initial
24 deposits as part of the combined transaction would make the Debtors insolvent; the transfers
25 occurred shortly before or after the Debtors incurred substantial debt; and Cassidy had a
26 special relationship with Fazal-Karim, Jetcraft, and Bombardier.

27 724. These transfers were made less than two years before the Petition Date.

28 725. These transfers were transfers of Zetta PTE's property.

1 726. As set forth above, the Trustee is not bound by the English choice-of-law
2 provisions in the Plane 2, Plane 3, and Plane 4 Finance Leases. Even if the Trustee were
3 bound by the choice-of-law provisions, they would be ineffective under the choice-of-law
4 rules that the Court must apply. Nevertheless, under either US or English law, the Debtors,
5 not CAVIC, were the true economic owners of Planes 2, 3, and 4 and had the sole residual
6 equity interest in Planes 2, 3, and 4 following payment of the “rent” through the terms of
7 the Plane 2, Plane 3, and Plane 4 Finance Leases.

8 727. Accordingly, under either the per se test or the economic realities test, the
9 Plane 2, Plane 3, and Plane 4 Finance Leases should be recharacterized as secured
10 financings under US law or, alternatively, recognized as finance leases under English law,
11 not as true or operating leases, and that the transactions provided the Debtors with a vested
12 economic ownership interest in Planes 2, 3, and 4.

13 728. Pursuant to 11 U.S.C. § 548(a)(1), the Trustee is entitled to and therefore
14 seeks to avoid the Plane 2-5 APAs and any obligations arising from those agreements.

15 729. Because these obligations are avoidable under 11 U.S.C. § 548(a)(1)(A), the
16 Trustee is entitled to and therefore seeks to recover the value of the transfers made on
17 account of the obligations under the Plane 2-5 APAs pursuant to 11 U.S.C. § 550(a).

18 730. Pursuant to 11 U.S.C. § 550(a), the Trustee is entitled to and therefore seeks
19 to recover the value of these transfers from Bombardier, as the initial transferee or the
20 transferee for whose benefit the transfer was made, pursuant to 11 U.S.C. § 550(a).

21
22 **COUNT 15**
23 **Against Bombardier**
24 **Avoidance and Recovery of Constructive Fraudulent Transfers (Planes 2-5)**
25 **11 U.S.C. §§ 548, 550**

26 731. The Trustee re-alleges all paragraphs above.

27 732. On December 10, 2015, Zetta PTE entered into the Plane 2-5 APAs with
28 Bombardier for the CAVIC Aircraft.

1 733. On or around May 24, 2016, the Debtors (through TVPX as owner trustee)
2 entered into the Plane 2 Finance Lease with CAVIC (through the ZJ6000-1 ST).

3 734. On or around September 16, 2016, the Debtors (through TVPX as owner
4 trustee) entered into the Plane 3 Finance Lease with CAVIC (through the ZJ6000-2 ST).

5 735. On or around December 23, 2016, the Debtors (through TVPX as owner
6 trustee) entered into the Plane 4 Finance Lease with CAVIC (through the ZJ6000-3 ST).

7 736. TVPX, not in its individual capacity but solely as owner trustee, is a party to
8 the Plane 2, Plane 3, and Plane 4 Finance Leases as lessee. At all relevant times, the Debtors
9 rather than TVPX were the real parties in interest on the Plane 2, Plane 3, and Plane 4
10 Finance Leases.

11 737. The CAVIC Statutory Trusts are parties to the Plane 2, Plane 3, and Plane 4
12 Finance Leases as lessors. At all times, CAVIC was the real party in interest on the Plane
13 2, Plane 3, and Plane 4 Finance Leases.

14 738. The Plane 2, Plane 3, and Plane 4 Finance Leases are not true leases or
15 operating leases, but finance leases that create a security interest both per se and under the
16 economic realities test.³²

17 739. A per se security interest is created if (a) the consideration that the lessee is
18 to pay the lessor for the right to possession and use of the goods is an obligation for the term
19 of the lease and is not subject to termination by the lessee and (b) the lessee has an option
20 to become the owner of the goods for no additional consideration or for nominal additional
21 consideration upon compliance with the lease agreement. Under the economic realities test,
22 a lease creates a security interest if the economic substance of the transaction indicates that
23 the arrangements were not true or operating leases, but rather finance leases.

24
25
26 ³² The Trustee sought a declaratory judgment recharacterizing the Plane 2, Plane 3, and
27 Plane 4 Finance Leases as finance leases, rather than true leases, in Count I of the original
28 CAVIC complaint, filed on May 21, 2019. The Trustee continues to seek a declaratory
judgment recharacterizing the Plane 2, Plane 3, and Plane 4 Finance Leases as finance
leases, rather than true leases, in Count I of the amended CAVIC complaint.

1 740. First, the per se test is satisfied here. [REDACTED]

2 [REDACTED]
3 [REDACTED]
4 [REDACTED] As a
5 result, the Plane 2, Plane 3, and Plane 4 Finance Leases constituted finance leases between
6 CAVIC and the Debtors, and therefore created a per se security interest in Planes 2, 3, and
7 4for the Debtors.

8 741. Second, the economic realities test is satisfied here. CAVIC did not retain
9 any entrepreneurial risk under the Plane 2, Plane 3, and Plane 4 Finance Leases and, [REDACTED]

10 [REDACTED]
11 [REDACTED] CAVIC did not expect to retain the property at the end of the lease term.
12 CAVIC's only expectation was to receive payments of principal and interest during the
13 course of the alleged "lease." The Debtors were at all times the actual economic owners of
14 Planes 2, 3, and 4, bearing the risks and benefits of that ownership both before and after the
15 acquisition of Planes 2, 3, and 4.

16 742. Under either US or English law, the Debtors, not CAVIC, were the true
17 economic owners of Planes 2, 3, and 4 and had the sole residual equity interest in Planes 2,
18 3, and 4 following payment of the "rent" through the terms of the Plane 2, Plane 3, and
19 Plane 4 Finance Leases.

20 743. Accordingly, under either the per se test or the economic realities test, the
21 Court should declare that the Plane 2, Plane 3, and Plane 4 Finance Leases should be
22 recharacterized as secured financings under US or English law, not as true or operating
23 leases, and that the Plane 2, Plane 3, and Plane 4 Finance Leases vested the Debtors with an
24 economic ownership interest in Planes 2, 3, and 4 for the purposes of the Trustee's claims
25 under section 105(a), 548, and 550 of the Bankruptcy Code.

26 744. The Debtors made transfers to BAC consisting of a total of \$120.36 million
27 in loan proceeds from CAVIC on behalf of the Debtors.

28 745. Zetta PTE did not receive reasonably equivalent value for the transfers made

1 under the Plane 2-5 APAs because, from the perspective of the Debtors' estates, Planes 2-
2 5 were not able to generate income sufficient to equal the purchase price or the debt service
3 on them.

4 746. Further, as set forth above in paragraphs 341-360 and 465-466, the purchase
5 price of Planes 2-5 were significantly higher than the market prices.

6 747. At the time Zetta PTE made these transfers, as set forth above in paragraphs
7 467-484, the Debtors were insolvent or became insolvent as a result of the transfers, were
8 engaged in business or about to engage in business for which their remaining property was
9 unreasonably small capital, or intended to incur, or believed that they would incur, debts
10 that were beyond their ability to pay as such debts matured.

11 748. These transfers were made less than two years before the Petition Date.

12 749. These transfers were transfers of Zetta PTE's property.

13 750. Pursuant to 11 U.S.C. § 548(a)(1)(B), the Trustee is entitled to and therefore
14 seeks to avoid the transfers made under the Plane 2-5 APAs.

15 751. Pursuant to 11 U.S.C. § 550(a), the Trustee is entitled to and therefore seeks
16 to recover the value of these transfers from Bombardier, as the initial transferee or the
17 transferee for whose benefit the transfer was made, pursuant to 11 U.S.C. § 550(a).

18
19 **COUNT 16**
20 **Against Bombardier**
21 **Avoidance and Recovery of Actual Intent Fraudulent Transfer (Plane 6)**
22 **11 U.S.C. §§ 548, 550**

23 752. The Trustee re-alleges all paragraphs above.

24 753. On December 10, 2015, Zetta PTE made a transfer of \$46.3 million to BAC
25 towards the purchase of Plane 6. On December 28, 2015, Zetta PTE made an additional
26 transfer of \$1 million to BAC toward the purchase of Plane 6.

27 754. Despite making these transfers, Zetta PTE was not a party to any contract
28 with BAC for Plane 6. Instead, BAC entered into an Asset Purchase Agreement with Glove
Assets for the purchase of Plane 6.

1 755. After these transfers were made, BAC sold Plane 6 to Glove Assets and
2 Glove Assets was thereafter the beneficial owner of this plane. Zetta PTE thereafter
3 purchased Plane 6 from Glove Assets through a finance lease and other agreements.

4 756. As described in paragraphs 400-430, Cassidy was operating the Debtors as
5 a fraudulent scheme or Ponzi-like scheme, or both, to enrich himself at the expense of
6 creditors, and thus had the actual intent to delay, hinder or defraud creditors.

7 757. In the alternative, as described in paragraphs 431-447, Cassidy believed at
8 the time of each aircraft transaction that the consequences of his actions were substantially
9 certain to hinder, delay, or defraud the Debtors' creditors, and Cassidy should have seen
10 this result as a natural consequence of his actions. Cassidy knew at the time he entered into
11 and closed on the transactions and at the time of each of the transfers that the transactions
12 would waste the financial resources of the Debtors to the detriment of creditors; that there
13 was no economic justification for the transactions because there was no realistic possibility
14 that the transactions would ever be profitable for the Debtors and thus would ultimately
15 harm creditors; and that the transactions were undertaken to enrich himself at the expense
16 of creditors.

17 758. In the alternative, as described in paragraphs 448-464, the badges of fraud
18 are present in this transaction. In addition, as set forth above, Cassidy failed to disclose that
19 he caused the Debtors and their subsidiaries to enter into the Plane 6 APA and make the
20 transfers in exchange for the kickbacks he received from Fazal-Karim and Jetcraft Global
21 as part of the same transactions involving Plane 1, the CAVIC Planes, and Plane 6; the
22 transfers combined with the simultaneously negotiated transfers for other Planes involved
23 all or substantially all of the Debtors' assets at the time; Cassidy removed or concealed
24 assets in the form of the kickbacks; the Debtors did not receive reasonably equivalent value;
25 the \$1 million in initial deposits as part of the combined transaction would make the Debtors
26 insolvent; the transfers occurred shortly before or after the Debtors incurred substantial
27 debt; and Cassidy had a special relationship with Fazal-Karim, Jetcraft, and Bombardier.

28 759. These transfers were made less than two years before the Petition Date.

1 760. These transfers were transfers of Zetta PTE's property.

2 761. Because these transfers are avoidable under 11 U.S.C. § 548(a)(1)(A), the
3 Trustee is entitled to and therefore seeks to recover the value of the transfers made pursuant
4 to 11 U.S.C. § 550(a).

5 762. Pursuant to 11 U.S.C. § 550(a), the Trustee is entitled to and therefore seeks
6 to recover the value of these transfers from Bombardier, as the initial transferee or the
7 transferee for whose benefit the transfer was made, pursuant to 11 U.S.C. § 550(a).

8
9 **COUNT 17**
10 **Against Bombardier**
11 **Avoidance and Recovery of Constructive Fraudulent Transfer (Plane 6)**
12 **11 U.S.C. §§ 548, 550**

13 763. The Trustee re-alleges all paragraphs above.

14 764. On December 10, 2015, Zetta PTE made a transfer of \$46.3 million to BAC
15 towards the purchase of Plane 6. On December 28, 2015, Zetta PTE made an additional
16 transfer of \$1 million to BAC toward the purchase of Plane 6.

17 765. Despite making these transfers, Zetta PTE was not a party to any contract
18 with BAC for Plane 6. Instead, BAC entered into an Asset Purchase Agreement with Glove
19 Assets for the purchase of Plane 6.

20 766. After these transfers were made, BAC sold Plane 6 to Glove Assets and
21 Glove Assets was thereafter the beneficial owner of this plane. Zetta PTE thereafter
22 purchased Plane 6 from Glove Assets through a finance lease and other agreements.

23 767. Zetta PTE did not receive reasonably equivalent value for the obligations it
24 incurred in purchasing Plane 6 because Zetta was not a party to any contract with BAC for
25 Plane 6 and thus had no legal obligation to make the transfers, nor did Zetta PTE receive
26 title to Plane 6. Further, from the perspective of the Debtors' estates, Plane 6 was not able
27 to generate income sufficient to equal the purchase price or the debt service on it.

28 768. Further, as set forth above in paragraphs 341-360 and 465-466, the purchase
price of Plane 6 was significantly higher than its market price.

1 in its bankruptcy cases and the current balances in the estates' bank accounts show that
2 general unsecured creditors will not receive a meaningful distribution absent recoveries in
3 this and other avoidance actions.

4 781. Accordingly, pursuant to 11 U.S.C. § 547, the Trustee is entitled to and
5 therefore seeks to avoid the transfer.

6 782. BAC was the initial transferee.

7 783. Because the transfer is avoidable under 11 U.S.C. § 547 it is recoverable
8 pursuant to 11 U.S.C. § 550(a).

9 784. The Trustee is entitled to and therefore seeks to recover the value of the
10 transfers from BAC, as the initial transferee or the transferee for whose benefit the transfer
11 was made, pursuant to 11 U.S.C. § 550(a).

12 **COUNT 19**
13 **By Zetta PTE against Learjet, BI, and BAC**
14 **Avoidance and Recovery of US Preference Transfer**
11 U.S.C. §§ 547, 550

15 785. The Trustee re-alleges all paragraphs above.

16 786. In the 90 days prior to the Petition Date, Zetta PTE made a transfer of
17 [REDACTED] to Learjet.

18 787. The transfer was made while the Debtors were insolvent.

19 788. The transfer was made to Learjet for the benefit of BI or BAC or both, who
20 were each creditors under 11 U.S.C. § 547(b)(1).

21 789. The transfer was made on account of an antecedent debt in the amount of
22 [REDACTED] owed by the Debtors to BI and BAC under the Settlement Agreement.

23 790. The transfer enabled Learjet, BI, and BAC to recover more than they would
24 have received (i) as a creditor in the Chapter 7 Cases; (ii) if the transfer had not been made,
25 and (iii) if Learjet had received payment of its debt to the extent provided by the Bankruptcy
26 Code.

27 791. The Trustee bases this allegation on: (i) BAC, BI, and Learjet are unsecured
28 creditors under the Settlement Agreement; and (ii) a review of the Debtors' schedules and

1 proofs of claim filed in its bankruptcy cases and the current balances in the estates' bank
2 accounts show that general unsecured creditors will not receive a meaningful distribution
3 absent recoveries in this and other avoidance actions.

4 792. Accordingly, pursuant to 11 U.S.C. § 547, the Trustee is entitled to and
5 therefore seeks to avoid the transfers.

6 793. Learjet was the initial transferee.

7 794. Because the transfers are avoidable under 11 U.S.C. § 547 they are
8 recoverable pursuant to 11 U.S.C. § 550(a).

9 795. The Trustee is entitled to and therefore seeks to recover the value of the
10 transfers from Learjet, as the initial transferee or from BI and BAC, the transferees for
11 whose benefit the transfers were made, pursuant to 11 U.S.C. § 550(a).

12 **COUNT 20**
13 **Against BAC**
14 **Violation of Automatic Stay**
11 U.S.C. § 362

15 796. The Trustee re-alleges all paragraphs above.

16 797. Since the Debtors' filing of their chapter 11 petitions on September 15, 2017,
17 there has been a stay prohibiting any entity from obtaining possession of, interfering with,
18 or exercising control over, the Debtors' property, including, but not limited to, any interests
19 in executory contracts and unexpired leases, and any attempt to retain possession of property
20 of the estates absent relief from the automatic stay.

21 798. As set forth above, BAC performed an unauthorized Setoff of the
22 Bombardier Debts against debts owed to it by Zetta PTE, and since the Petition Date, BAC
23 has continued to refuse pay the Bombardier Debts, which are assets of the Debtors' estates,
24 to Zetta PTE. BAC's actions are in clear violation of the Debtors' automatic stay under
25 applicable law.

26 799. As set forth above, BAC refused to perform under the Smart Parts
27 Agreement, which represented an illegal, unilateral ceasing of performance under an
28 executory contract, in violation of 11 U.S.C. § 365, and which also constitutes direct

1 interference with Zetta PTE's leasehold interest in the Aircraft Lease. BAC's actions were
2 in clear violation of the automatic stay under 11 U.S.C. § 362(a)(3).

3 800. Zetta PTE has been damaged by BAC's willful violations of the stay,
4 through the delay in the use of the Aircraft, which was not air-ready until the maintenance
5 BAC is to provide under the Smart Parts Program is completed, through the loss of access
6 to estate property and funds that were needed to maintain the Debtors' business as a going
7 concern prior to the Shutdown Date. The Trustee and the estates are also entitled to
8 attorneys' fees that the Trustee has incurred in enforcing the automatic stay with respect to
9 this violation as compensatory damages.

10
11 **COUNT 21**
Intentionally Omitted

12
13 **COUNT 22**
Intentionally Omitted

14
15 **COUNT 23**
Intentionally Omitted

16
17 **COUNT 24**
By Zetta PTE against Jetcraft Corp. and Jetcraft Global
Turnover of Property of the Estate
11 U.S.C. § 542

18
19 801. The Trustee re-alleges all paragraphs above.

20 802. On August 9, 2017, Zetta PTE and Jetcraft Global entered into the Side
21 Letter Agreement, under which [REDACTED]

22 [REDACTED]
23
24 803. On or around December 28, 2017, Jetcraft Global entered into a contract to
25 sell Plane 16 to Thorney Alpha Pty Ltd for [REDACTED] After the deduction of costs, Jetcraft
26 Corp. or Jetcraft Global calculated that Zetta PTE was entitled to \$387,500.48 under the
27 Side Letter Agreement.
28

1 804. Jetcraft Corp. or Jetcraft Global is in possession or control of \$387,500.48,
2 which is property of the Debtors' estate.

3 805. Under 11 U.S.C. § 542(b), "an entity that owes a debt that is property of the
4 estate and that is matured, payable on demand, or payable on order, shall pay such debt to,
5 or on the order of, the trustee, except to the extent that such debt may be offset under section
6 553 of this title against a claim against the debtor."

7 806. The \$387,500.48 is a debt owed to Zetta PTE, which is payable on demand
8 and is not subject to offset under 11 U.S.C. § 553.

9 807. Accordingly, Jetcraft Corp. or Jetcraft Global must turn over the
10 \$387,500.48 due to Zetta PTE to the Trustee for the benefit of Zetta PTE's estate.

11 **COUNT 25**
12 **Against all Defendants**
13 **Disallowance of Claims**
11 U.S.C. § 502(d)

14 808. The Trustee re-alleges all paragraphs above.

15 809. 11 U.S.C. § 502(d) provides that the claim of any entity from which property
16 is recoverable under 11 U.S.C. §§ 542 or 550, or that is a transferee of a transfer avoidable
17 under 11 U.S.C. §§ 547 or 548, shall be disallowed unless the transferee has paid the amount
18 for which it is liable under 11 U.S.C. §§ 542 or 550.

19 810. The Defendants are entities from which property is recoverable under 11
20 U.S.C. §§ 542 or 550 or transferees of transfers which are avoidable under 11 U.S.C. §§
21 547 or 548.

22 811. Pursuant to 11 U.S.C. § 502(d), any and all claims of the Defendants against
23 the Debtors must be disallowed until such time as the Defendants pay the Trustee the
24 amounts required or turned over the property that is recoverable.

25 **COUNT 26**
26 **Intentionally Omitted**

27 **COUNT 27**
28 **Intentionally Omitted**

COUNT 28
Intentionally Omitted

COUNT 29
Intentionally Omitted

COUNT 30
Intentionally Omitted

COUNT 31
Against Bombardier
Avoidance and Recovery of Actual Intent Fraudulent Transfer (Plane 6)
11 U.S.C. §§ 548, 550

812. The Trustee re-alleges all paragraphs above.

813. On December 10, 2015, Zetta PTE made a transfer of \$46.3 million to BAC towards the purchase of Plane 6. On December 28, 2015, Zetta PTE made an additional transfer of \$1 million to BAC toward the purchase of Plane 6.

814. On or about December 29, 2015, Zetta PTE entered into the 2015 Plane 6 Finance Lease.

815. Although the 2015 Plane 6 Finance Lease used the term “lease” in its title, it was not a “true” or “operating” lease under which a lessee and a lessor agree to for the lessee to rent an asset at a monthly fair usage charge with the lessor retaining the residual ownership interest, and risks attendant to such ownership interest, at the conclusion of the lease term.

816. Cassidy and Li consistently treated the 2015 Plane 6 Finance Lease as a loan to Zetta PTE, and not a true lease, in all of their discussions and negotiations. In addition, the \$50 million loan (the proceeds of which had already been paid by Universal Leader to the Debtors, which used the proceeds to fund the purchase price for Plane 6) was recorded on the Debtors’ books and records as a loan to Zetta PTE and Plane 6 was carried as an asset on Zetta’s consolidated balance sheet. As a director of Zetta PTE, Li reviewed the books and records of Zetta PTE and affirmatively approved the description of the 2015

1 Plane 6 Finance Lease as a loan to Zetta PTE, and not a lease, and Plane 6 as an asset of
2 Zetta.

3 817. Accordingly, the Plane 6 Finance Lease should be recharacterized under
4 applicable law as an investment, not an operating lease, and that the transaction provided
5 the Debtors with a vested economic ownership interest in Plane 6.

6 818. Once the Plane 6 Finance Lease is properly recharacterized, the Debtors had
7 a property interest in the \$47.3 million that it transferred to Bombardier.

8 819. As described in paragraphs 400-430, Cassidy was operating the Debtors as
9 a fraudulent scheme or Ponzi-like scheme, or both, to enrich himself at the expense of
10 creditors, and thus had the actual intent to delay, hinder or defraud creditors.

11 820. In the alternative, as described in paragraphs 431-447, Cassidy believed at
12 the time of each aircraft transaction that the consequences of his actions were substantially
13 certain to hinder, delay, or defraud the Debtors' creditors, and Cassidy should have seen
14 this result as a natural consequence of his actions. Cassidy knew at the time he entered into
15 and closed on the transactions and at the time of each of the transfers that the transactions
16 would waste the financial resources of the Debtors to the detriment of creditors; that there
17 was no economic justification for the transactions because there was no realistic possibility
18 that the transactions would ever be profitable for the Debtors and thus would ultimately
19 harm creditors; and that the transactions were undertaken to enrich himself at the expense
20 of creditors.

21 821. In the alternative, as described in paragraphs 448-464, the badges of fraud
22 are present in this transaction. In addition, as set forth above, Cassidy failed to disclose that
23 he caused the Debtors and their subsidiaries to enter into the Plane 6 APA and make the
24 transfers in exchange for the kickbacks he received from Fazal-Karim and Jetcraft Global
25 as part of the same transactions involving Plane 1, the CAVIC Planes, and Plane 6; the
26 transfers combined with the simultaneously negotiated transfers for other Planes involved
27 all or substantially all of the Debtors' assets at the time; Cassidy removed or concealed
28 assets in the form of the kickbacks; the Debtors did not receive reasonably equivalent value;

1 the \$1 million in initial deposits as part of the combined transaction would make the Debtors
2 insolvent; the transfers occurred shortly before or after the Debtors incurred substantial
3 debt; and Cassidy had a special relationship with Fazal-Karim, Jetcraft, and Bombardier.

4 822. These transfers were made less than two years before the Petition Date.

5 823. These transfers were transfers of Zetta PTE's property.

6 824. Under either US or Singapore law, the Debtors, not Glove Assets, were the
7 true economic owners of Plane 6 and had the sole residual equity interest in Plane 6
8 following payment of the "rent" through the term of the 2015 Plane 6 Finance Lease.

9 825. Accordingly, under either the per se test or the economic realities test, the
10 2015 Plane 6 Finance Leases should be recharacterized as a secured financing under US
11 law or, alternatively, recognized as a finance lease under Singapore law, not as a true or
12 operating lease, and that the transaction provided the Debtors with a vested economic
13 ownership interest in Plane 6.

14 826. Because these transfers are avoidable under 11 U.S.C. § 548(a)(1)(A), the
15 Trustee is entitled to and therefore seeks to recover the value of the transfers made pursuant
16 to 11 U.S.C. § 550(a).

17 827. Pursuant to 11 U.S.C. § 550(a), the Trustee is entitled to and therefore seeks
18 to recover the value of these transfers from Bombardier, as the initial transferee or the
19 transferee for whose benefit the transfer was made, pursuant to 11 U.S.C. § 550(a).

20
21 **COUNT 32**
22 **Against Bombardier**
23 **Avoidance and Recovery of Constructive Fraudulent Transfer (Plane 6)**
24 **11 U.S.C. §§ 548, 550**

25 828. The Trustee re-alleges all paragraphs above.

26 829. On December 10, 2015, Zetta PTE made a transfer of \$46.3 million to BAC
27 towards the purchase of Plane 6. On December 28, 2015, Zetta PTE made an additional
28 transfer of \$1 million to BAC toward the purchase of Plane 6.

1 830. On or about December 29, 2015, Zetta PTE entered into the 2015 Plane 6
2 Finance Lease.

3 831. Although the 2015 Plane 6 Finance Lease used the term “lease” in its title, it
4 was not a “true” or “operating” lease under which a lessee and a lessor agree to for the lessee
5 to rent an asset at a monthly fair usage charge with the lessor retaining the residual
6 ownership interest, and risks attendant to such ownership interest, at the conclusion of the
7 lease term.

8 832. Cassidy and Li consistently treated the 2015 Plane 6 Finance Lease as a loan
9 to Zetta PTE, and not a true lease, in all of their discussions and negotiations. In addition,
10 the \$50 million loan (the proceeds of which had already been paid by Universal Leader to
11 the Debtors, which used the proceeds to fund the purchase price for Plane 6) was recorded
12 on the Debtors’ books and records as a loan to Zetta PTE and Plane 6 was carried as an
13 asset on Zetta’s consolidated balance sheet. As a director of Zetta PTE, Li reviewed the
14 books and records of Zetta PTE and affirmatively approved the description of the 2015
15 Plane 6 Finance Lease as a loan to Zetta PTE, and not a lease, and Plane 6 as an asset of
16 Zetta.

17 833. As set forth above in paragraphs 341-360 and 465-466, the purchase price
18 of Plane 6 was significantly higher than its market price. Zetta PTE thus did not receive
19 reasonably equivalent value.

20 834. At the time Zetta PTE made these transfers, as set forth above in paragraphs
21 467-484, the Debtors were insolvent or became insolvent as a result of the transfers, were
22 engaged in business or about to engage in business for which their remaining property was
23 unreasonably small capital, or intended to incur, or believed that they would incur, debts
24 that were beyond their ability to pay as such debts matured.

25 835. These transfers were made less than two years before the Petition Date.

26 836. These transfers were transfers of Zetta PTE’s property.

27 837. Pursuant to 11 U.S.C. § 548(a)(1)(B), the Trustee is entitled to and therefore
28 seeks to avoid the transfers relating to Plane 6.

1 838. Pursuant to 11 U.S.C. § 550(a), the Trustee is entitled to and therefore seeks
2 to recover the value of these transfers from Bombardier, as the initial transferee or the
3 transferee for whose benefit the transfer was made, pursuant to 11 U.S.C. § 550(a).

4 **RESERVATION OF RIGHTS**

5 839. The Trustee reserves the right to bring all other claims or causes of action
6 that the Trustee may have against any Defendant, on any and all grounds, as allowed under
7 the law or in equity, including but not limited to, those claims not known by the Trustee at
8 this time but that he may discover during the pendency of this Complaint.

9 840. The Trustee has intentionally omitted Counts 4, 5, 21, 22, 23, 26, 27, 28, 29,
10 and 30; information regarding CAVIC, the CAVIC Statutory Trusts, Glove Assets, Wells
11 Fargo, and TVPX; and certain other allegations and information from the First Amended
12 Adversary Complaint in response to the Court's July 13, 2021 Memorandum of Decision
13 on "Motion For Leave To Amend Adversary Complaint," Docket #199, Filed by Chapter 7
14 Trustee Jonathan D. King" [Adv. Docket No. 241]. By doing so, the Trustee does not intend
15 to and does not waive or forfeit his claims as set forth in the proposed First Amended
16 Adversary Complaint, including claims against the parties identified above, or any right to
17 appeal the Court's memorandum or other decisions with respect to the pleadings, including
18 without limitation the Court's denial of consolidation.

19 **PRAYER FOR RELIEF**

20 **WHEREFORE**, the Trustee respectfully requests that the Court enter judgment in
21 his favor, and against the Defendants, as follows:

22 a. Enter judgment in favor of the Trustee and against the Fazal-Karim
23 Defendants and Bombardier for compensatory and punitive damages in an amount to be
24 determined at trial;

25 b. Enter judgment in favor of the Trustee and against the Fazal-Karim
26 Defendants and Bombardier for restitution and disgorgement in the amount to be
27 determined at trial;

28 c. Intentionally omitted;

1 d. Enter judgment in favor of the Trustee and against Jetcraft Corp. and
2 Jetcoast, pursuant to 11 U.S.C. §§ 548(a)(1)(A) or 548(a)(1)(B), 548(c), and 550, avoiding
3 the transfers made in the amount of at least \$43.355 million pursuant to the Plane 1 APA
4 and Plane 1 Loan Agreement and directing Jetcraft Corp. and Jetcoast to return the value of
5 the transfers to the Trustee;

6 e. Enter judgment in favor of the Trustee and against Jetcraft Global and Orion
7 pursuant to 11 U.S.C. §§ 548(a)(1)(A) or 548(a)(1)(B), 548(c), and 550, avoiding the
8 transfers made in the amount of at least \$49.5 million pursuant to the Plane 10 APA and
9 Plane 10 Loan Agreement and directing Jetcraft Global and Orion to return the value of the
10 transfers to the Trustee;

11 f. Declare that the Plane 2, Plane 3, and Plane 4 Finance Leases are secured
12 financings under US or English law, not true or operating leases, and that the Plane 2, Plane
13 3, and Plane 4 Finance Leases vested the Debtors with an economic ownership interest in
14 Planes 2, 3, and 4 for the purposes of the Trustee's claims;

15 g. Enter judgment in favor of the Trustee and against Bombardier pursuant to
16 11 U.S.C. §§ 548(a)(1)(A) or 548(a)(1)(B), 548(c), and 550, avoiding the transfers in the
17 amount of at least \$30,954,168 from Zetta PTE bank accounts to Bombardier made pursuant
18 to the Plane 2-5 APAs and directing Bombardier to return the value of the transfers to the
19 Trustee;

20 h. Enter judgment in favor of the Trustee and against Bombardier pursuant to
21 11 U.S.C. §§ 548(a)(1)(A) or 548(a)(1)(B), 548(c), and 550, avoiding the transfers in the
22 amount of at least \$120.36 million in loan proceeds from CAVIC on behalf of the Debtors
23 to Bombardier made pursuant to the Plane 2-5 APAs and directing Bombardier to return the
24 value of the transfers to the Trustee;

25 i. Enter judgment in favor of the Trustee and against Bombardier pursuant to
26 11 U.S.C. §§ 548(a)(1)(A) or 548(a)(1)(B), 548(c), and 550, avoiding the transfers in the
27 amount of at least \$47.3 million relating to Plane 6, and directing Bombardier to return the
28 value of the transfers to the Trustee;

1 j. Enter judgment in favor of the Trustee and against BAC, pursuant to 11
2 U.S.C. §§ 547 and 550, avoiding the transfer in the amount of at least \$3,262,834 and
3 directing Bombardier to return the value of the transfer to the Trustee;

4 k. Enter judgment in favor of the Trustee and against Learjet, BI, and BAC,
5 pursuant to 11 U.S.C. §§ 547 and 550, avoiding the transfer in the amount of at least
6 [REDACTED] and directing Learjet, BI, and BAC to return the value of the transfer to the
7 Trustee;

8 l. Enter judgment in favor of the Trustee and against BAC for violation of the
9 automatic stay imposed by 11 U.S.C. § 362, and awarding damages to the Trustee in an
10 amount to be determined at trial;

11 m. Intentionally omitted;

12 n. Intentionally omitted;

13 o. Enter judgment in favor of the Trustee and against Jetcraft Corp. and Jetcraft
14 Global, pursuant to 11 U.S.C. § 542, directing Jetcraft Corp. and Jetcraft Global to turn over
15 any property of the Debtors' bankruptcy estates including the \$387,500.48 due to Zetta PTE
16 under the Side Letter;

17 p. Enter judgment in favor of the Trustee and against all Defendants pursuant
18 to 11 U.S.C. § 502(h) disallowing any claims filed by the Defendants until they return the
19 various transfers to the Trustee;

20 q. Intentionally omitted;

21 r. Intentionally omitted;

22 s. Declare that the Plane 6 Finance Lease is a secured financing under US or
23 Singapore law, not a true or operating lease, and that the Plane 6 Finance Leases vested the
24 Debtors with an economic ownership interest in Plane 6 for the purposes of the Trustee's
25 claims; and

26 t. Grant such other relief as is just and equitable.

27 * * *

Dated: July 28, 2021

Respectfully submitted,

DLA PIPER LLP (US)

By: /s/John K. Lyons

DAVID B. FARKAS

JOHN K. LYONS (*Pro Hac Vice*)

JEFFREY S. TOROSIAN (*Pro Hac Vice*)

JOSEPH A. ROSELIUS (*Pro Hac Vice*)

Attorneys for the Trustee